



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

JUN 29 2001

CERTIFIED MAIL
RETURN RECEIPT REQUESTED



S00149781
SUPERFUND RECORDS

Michael Wilcken, Esq.
Consolidated Edison Company
4 Irving Place
New York, New York 10003

153778

Dear Mr. Wilcken:

Re: PCB Treatment, Inc., Superfund Site
Proposed Negotiations of Administrative Order on Consent

This letter is being sent to parties who have been previously identified by the United States Environmental Protection Agency (EPA) as potentially responsible parties (PRPs) under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. § 9607(a), at the PCB Treatment, Inc., Superfund Site (Site). On August 3, 2000, EPA determined there was an imminent and substantial endangerment at the Site as a result of the release and threat of release of hazardous substances and that environmental response actions were necessary to abate the threat to the public health, welfare, and environment. Under Section 106(a) of CERCLA, EPA has the authority to take actions to abate a release or threat of release of hazardous substances, to order PRPs to take such actions, or to oversee the performance of work by PRPs whom EPA determines are technically and financially able to perform the work. By this letter, EPA is offering PRPs at this Site the opportunity to perform the environmental response actions under an Administrative Order on Consent (Consent Order).

The enclosed draft Consent Order provides that the non-Federal PRPs at the Site (Respondents) perform the removal actions described in the Action Memoranda dated August 3, 2000, and the Federal PRPs at the Site (Federal Respondents) pay the Respondents 33 percent of the costs that Respondents incur in performing the work. In addition, the draft Consent Order provides a means for Respondents to receive partial reimbursement of their costs incurred in

performing the work through disbursements from a PCB Treatment, Inc., Disbursement Special Account. Also, through the draft Consent Order, EPA credits the Respondents for an orphan share by forgiving EPA's past investigative and oversight costs and future oversight costs. This is estimated at \$3,000,000.

Because EPA has been working closely with the PCB Treatment, Inc., Steering Committee, whose members are the Respondents in the draft Consent Order, EPA will be operating on an expedited negotiations schedule. **If Respondents are interested in negotiating the Consent Order, EPA requests that Respondents make a good faith offer by July 13, 2001.** A good faith offer is a written proposal that demonstrates the Respondents' qualifications and willingness to conduct the removal actions and includes the following elements:

1. A statement of willingness by the Respondents to conduct the removal actions, generally consistent with the draft Consent Order and Statement of Work;
2. A statement of technical capability of the Respondents to perform the work by identifying the consultants or parties that the Respondents will rely on to perform the work and describing their experience and expertise which qualify them to undertake the work; and
3. A detailed counter to EPA's draft Consent Order and Statement of Work.

The EPA is assuming that the Respondents have the financial ability to perform the removal actions, based on public information concerning the financial viability of the entities collectively and the structure of the draft Consent Order. However, if there is any question about Respondents' ability to pay, that information will need to be conveyed to EPA with supporting documentation.

The EPA plans to conclude negotiations of the enclosed Consent Order on or before July 31, 2001. The draft Consent Order has been preliminarily reviewed by the Department of Justice (DOJ). After negotiations are completed, DOJ-Defense will review the document once more as the amount of the Federal Respondents' down payment requires specific approval. When that approval occurs, the agreement as a whole must be approved by the Attorney General pursuant to Section 122(h) of the CERCLA.

The EPA has viewed its relationship with the PCB Treatment, Inc., Steering Committee to be quite productive and looks forward to receiving a good faith offer by July 13, 2001. The EPA considers a settlement to be in the public interest and also notes the benefits that would inure to the Respondents through a negotiated agreement with EPA as it is the only mechanism through which the Respondents will receive credit for the orphan share, a 33 percent contribution from Federal PRPs, and distributions from the PCB Treatment, Inc., Special Disbursement Account. If you have any questions of a legal nature, please direct them to Audrey Asher, Senior Assistant Regional Counsel, at (913) 551-7255. Questions of a technical nature should be directed to Paul Roemerman, Remedial Project Manager, at (913) 551-7694.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steve Kovac".

Steve Kovac, Chief
Kansas/Missouri Remedial Branch
Superfund Division

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY - REGION VII
901 N. FIFTH STREET
KANSAS CITY, KANSAS

IN THE MATTER OF:
PCB Treatment, Inc.

2100 Wyandotte Street
Kansas City, Missouri

and

45 Ewing Street
Kansas City, Kansas

ADMINISTRATIVE ORDER ON
CONSENT FOR REMOVAL ACTION

U.S. EPA Region VII
CERCLA Docket No. _____

Proceeding Under Sections 104, 106(a), 107
and 122 of the Comprehensive
Environmental Response, Compensation,
and Liability Act, as amended, 42 U.S.C.
§§ 9604, 9606(a), 9607 and 9622

TABLE OF CONTENTS

I.	JURISDICTION AND GENERAL PROVISIONS
II.	PARTIES BOUND
III.	DEFINITIONS
IV.	FINDINGS OF FACT
V.	CONCLUSIONS OF LAW AND DETERMINATIONS
VI.	ORDER
A.	DESIGNATION OF CONTRACTOR, PROJECT COORDINATOR, AND ON-SCENE COORDINATOR
B.	WORK TO BE PERFORMED
C.	REPORTING
D.	OFF-SITE SHIPMENTS
VII.	NOTICES AND SUBMISSIONS
VIII.	EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS
IX.	SITE ACCESS
X.	ACCESS TO INFORMATION
XI.	RECORD RETENTION
XII.	COMPLIANCE WITH OTHER LAWS
XIII.	EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES ...
XIV.	AUTHORITY OF ON-SCENE COORDINATOR
XV.	PAYMENT OF RESPONSE COSTS
XVI.	DISBURSEMENT OF SPECIAL ACCOUNT FUNDS
XVII.	DISPUTE RESOLUTION
XVIII.	FORCE MAJEURE
XIX.	STIPULATED PENALTIES
XX.	COVENANT NOT TO SUE BY EPA
XXI.	RESERVATIONS OF RIGHTS BY EPA
XXII.	COVENANT NOT TO SUE BY RESPONDENTS
XXIII.	OTHER CLAIMS
XXIV.	CONTRIBUTION PROTECTION
XXV.	INDEMNIFICATION AND INSURANCE
XVI.	FINANCIAL ASSURANCE
XXVII.	MODIFICATIONS
XXVIII.	ADDITIONAL REMOVAL ACTIONS
XXIX.	NOTICE OF COMPLETION
XXX.	PUBLIC COMMENT
XXXI.	SEVERABILITY/INTEGRATION/APPENDICES
XXXII.	ATTORNEY GENERAL APPROVAL
XXXIII.	EFFECTIVE DATE

I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Order on Consent ("Consent Order" or "Order") is entered into voluntarily by the United States Environmental Protection Agency ("EPA"), the parties listed in Appendix 1 ("Respondents") and the parties listed in Appendix 2 ("Federal Respondents"). This Order:

- a. requires Respondents to perform two removal actions at the PCB Treatment, Inc. Site located at 2100 Wyandotte Street, Kansas City, Missouri and 45 Ewing Street, Kansas City, Kansas ("Site");
- b. requires Federal Respondents to reimburse Respondents for 33% of the costs Respondents incur in performing the Work, defined in Section III below;
- c. provides Respondents reimbursement from the PCB Treatment, Inc. Special Disbursement Account for 29% of the costs they incur in performing the Work, defined in Section III below, to the extent such funds are available in the PCB Treatment, Inc. Special Account and subject to requirements set forth in Section XVI (Disbursement of Special Account Funds).

2. The purpose for conducting the removal actions described herein is to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances, pollutants, or contaminants at or from the Site.

3. This Order is issued pursuant to the authority vested in the President of the United States by Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622, as amended ("CERCLA"), and delegated to the Administrator of the EPA by Executive Order No. 12580, January 23, 1987, 52 Fed. Reg. 2923, further delegated to the EPA Regional Administrators by EPA Delegation Nos. 14-14-A, 14-14-C, and 14-14-D, and redelegated to the Region VII Director of the Superfund Division, by R7-14-14-A, R7-14-14-C, and R7-14-14-D.

4. EPA has notified the State of Kansas and the State of Missouri (the "States") of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

5. EPA, Federal Respondents, and Respondents recognize that this Order has been negotiated in good faith and that this Order is entered into without the admission or adjudication of any issue of fact or law. The actions undertaken by Respondents and Federal Respondents in accordance with this Order do not constitute an admission of any liability or of the EPA Findings of Fact, Conclusions of Law, and Determinations in Sections IV and V of this Order.

Respondents and Federal Respondents do not admit, and retain the right to controvert in any subsequent proceedings, other than proceedings to implement or enforce this Order, the validity of the Findings of Facts, Conclusions of Law, and Determinations in Sections IV and V of this Order. Respondents and Federal Respondents agree to comply with and be bound by the terms of this Order that are applicable to each and further agree that they will not contest the basis or validity of this Order or its terms.

II. PARTIES BOUND

6. This Order applies to and is binding upon EPA, Federal Respondents, and Respondents, their successors and assigns. Any change in ownership or corporate status of a Respondent including, but not limited to, any transfer of assets or real or personal property shall in no way alter such Respondent's responsibilities under this Order.

7. Respondents are jointly and severally liable for carrying out all activities required by this Order. In the event of the insolvency or other failure of any one or more Respondents to implement the requirements of this Order, the remaining Respondents shall complete all such requirements.

8. Respondents shall provide a copy of this Order to each contractor hired to perform the Work required by this Order, as defined in Section III below, and to each person representing any Respondent with respect to the Site or the Work and shall condition all contracts entered into hereunder upon performance of the Work in conformance with the terms of this Order. Respondents or their contractors shall provide written notice of the Order to all subcontractors hired to perform any portion of the Work required by this Order. Respondents shall nonetheless be responsible for ensuring that their contractors and subcontractors perform the Work contemplated herein in accordance with this Order. With regard to the activities undertaken pursuant to this Order, each contractor and subcontractor shall be deemed to be in a contractual relationship with Respondent within the meaning of Section 107(b)(3) of CERCLA, 42 U.S.C. § 9607(b)(3).

III. DEFINITIONS

9. Unless otherwise expressly provided herein, terms used in this Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Order or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

- a. "Action Memoranda" shall mean the EPA Action Memoranda relating to the 2100 Wyandotte Street facility and the 45 Ewing Street facility signed on August 3, 2000, by the Superfund Division Director, EPA Region VII and all attachments thereto. The

Action Memoranda are attached as Appendix 3.

b. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

c. "Day" shall mean a calendar day. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

d. "*De Minimis* Settlers" shall mean the parties who signed either Administrative Order on Consent, EPA Docket No. CERCLA-7-2000-0030 or EPA Docket No. CERCLA- 7-2001-0008.

e. "Effective Date" shall be the effective date of this Order as provided in Section XXXIII.

f. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

g. "Federal Respondents" shall mean those departments, agencies, and instrumentalities of the United States, including those specifically identified in Appendix 2.

h. "Future Oversight Costs" shall mean that portion of Future Response Costs that EPA incurs in monitoring and supervising Respondents' performance of the Work to determine whether such performance is consistent with the requirements of this Order, including costs incurred in reviewing plans, reports, and other documents submitted pursuant to this Order, as well as costs incurred in overseeing implementation of the Work.

i. "Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Order, verifying the Work, or otherwise implementing, overseeing, or enforcing this Order, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Paragraph 41 (costs and attorneys fees and any monies paid to secure access, including the amount of just compensation), Paragraph 52 (EMERGENCY RESPONSE), and and Paragraph 83 (WORK TAKEOVER). Future Response Costs shall also include all Interim Response Costs.

j. "Interim Response Costs" shall mean all costs, including direct and indirect costs, a) paid by the United States in connection with the Site between ----- and the Effective Date, or b) incurred prior to the Effective Date but paid after that date.

k. "Interest" shall mean Interest at the rate specified for Interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of Interest shall be the rate in effect at the time the Interest accrues. The rate of Interest is subject to change on October 1 of each year.

1. "KDHE" shall mean the Kansas Department of Environmental Health and any successor departments or agencies of the State of Kansas.

m. "Matters Addressed" shall mean the Work Plan, the Remedial Investigation/Feasibility Study, the Remedial Action Plan, the Institutional Controls Plan, the

building and map depicting each location are included in Appendix 3, Figures 1 and 2. The legal description of each property is attached as Appendix 4.

y. "Statement of Work" or "SOW" shall mean the Statement of Work for implementation of each removal action, as set forth in Appendix 5 to this Order, and any modifications made in accordance with this Order.

z. "United States" shall mean the United States of America.

aa. "Waste Material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33), 42 U.S.C. § 9601(33); and (3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

bb. "Work" shall mean all activities Respondents are required to perform under this Order, except those required by Section XI (RECORD RETENTION).

IV. FINDINGS OF FACT

10. PCB Treatment, Inc. was incorporated in Missouri in 1982 and remained an active corporation until 1989. PCB Treatment, Inc. operated at the 2100 Wyandotte Street, Kansas City, Missouri ("Wyandotte facility") from 1982 through 1987. Between 1984 and 1987, PCB Treatment, Inc. also operated at the 45 Ewing Street, Kansas City, Kansas ("Ewing facility").

11. PCB Treatment, Inc. and its subsidiaries or affiliates treated and stored polychlorinated biphenyls ("PCBs") contained in used transformers, capacitors, oil, equipment, and other materials at the Wyandotte facility and the Ewing facility which comprise the Site. During its period of operations, spills of PCBs, PCB-contaminated oil, and solvents (used to flush PCB contaminated equipment) occurred.

12. Anthony Schamel, former president of PCB Treatment, Inc. between 1986 and 1987, exercised control over operations at the Wyandotte property while he was president.

13. Robert Van Horn exercised control over operations at the Wyandotte property while he was General Manager of PCB Treatment, Inc. during the 1980s.

14. Michael Cannova, former president of CB Oil Company, exercised control over operations at the Wyandotte property in 1985 and 1986. During the capacitor decommissioning, spills of PCBs, PCB-contaminated oil, and solvents (used to flush PCB contaminated equipment) occurred.

15. Clean up of the spills was attempted at the Site; however, results of sampling and

analysis performed subsequent to the clean up attempts indicated that PCB contamination remained. Analyses of core samples of concrete at the Wyandotte property indicate the presence of PCBs at levels as high as 19,700 micrograms per kilogram (mg/kg). Analyses of core samples of concrete at the Ewing property indicate the presence of PCBs at levels as high as 15,000 mg/kg.

16. The Wyandotte property is currently owned by Genova Enterprises, Inc. ("Genova"). The property was transferred to Genova on February 22, 1994 from Linda Van Gundy Long. Ms. Long is also the sole shareholder of Genova and operated PCB Treatment, Inc. with her former husband, Jack Van Gundy, who is deceased.

17. Space at the Wyandotte property is currently leased to Rosse Lithography.

18. The Ewing property is currently owned by Anthony Prunsky. Anthony Prunsky and Dorothy Prunsky (now deceased) obtained title through a Quit Claim Deed from Pollution Control Industries of America ("PCIA") on October 20, 1988. PCIA purchased the Ewing facility from Linda Van Gundy (now Linda Long), Jack Van Gundy (now deceased), Jack Genova and Michael Genova on April 6, 1987. Linda Van Gundy, Jack Van Gundy, Jack Genova, and Michael Genova purchased the Ewing facility from Ewing Investments, a Missouri Corporation, on December 31, 1986.

19. The Ewing property is presently unoccupied. It shares a common wall with an operating business on the south; its northern wall is less than one foot from another operating business.

20. EPA conducted response actions, including the oversight of parties performing a Site Characterization ("SC") and Engineering Evaluation/Cost Analysis ("EE/CA") pursuant to Administrative Order on Consent, EPA Docket No. VII-96-F-0018. On the basis of all Site information available to EPA, including the results of the SC and EE/CA, EPA determined that further response actions were necessary to address the release and threatened release of hazardous substances from the Site.

21. Respondents listed in Appendix 1 and Federal Respondents listed in Appendix 2 include utility companies, rural electric cooperatives, Federal entities, municipalities, states, and manufacturing companies. These parties all arranged for disposal of PCBs or materials containing PCBs at the PCB Treatment, Inc. Site.

22. PCBs are toxic to human beings and animals when ingested or absorbed, causing a persistent rash. PCBs bioaccumulate in fatty tissues and are slowly released into the blood stream. PCBs may be toxic to the liver and adversely affect reproduction. EPA has classified PCBs as probable human carcinogens.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

23. Based on the Findings of Fact set forth above, and the Administrative Record supporting this removal action, EPA has determined that:

- a. The property located at 2100 Wyandotte Street, Kansas City, Missouri and the property located at 45 Ewing Street, Kansas City, Kansas are each a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
- b. The PCBs found at the Site are "hazardous substances" within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14) and the NCP, 40 C.F.R. § 302.4.
- c. Respondents and Federal Respondents are "persons" as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
- d. Each Respondent and each Federal Respondent is a responsible party under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).
- e. Respondents listed in Appendix 1 and Federal Respondents listed in Appendix 2 arranged for disposal or treatment of hazardous substances that were disposed of at the Site and are liable parties within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).
- f. The conditions described in the Findings of Fact above constitute an actual or threatened "release", as defined by Section 101(22) CERCLA, 42 U.S.C. § 9607(22), of a hazardous substance from each facility making up the Site.
- g. The actual or threatened release of hazardous substances at the Site has caused and will continue to cause the incurrence of response costs at the Site.
- h. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a). These conditions include the presence of PCBs in the concrete of the Wyandotte facility and the Ewing facility, posing a threat on-site to any person having direct contact with the concrete. The presence of PCBs in the soils surrounding each facility poses a threat wherever the contaminated soils migrate.
- i. The Removal Actions required by this Order are necessary to protect the public health, welfare, or the environment, and are not inconsistent with the NCP or CERCLA.

VI. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, it is hereby Ordered and Agreed that Respondents shall comply with the following provisions, including but not limited to, all attachments to this Order, and all documents incorporated by reference into this Order, and perform the following actions:

A. Designation of Contractor, Project Coordinator, and On-Scene Coordinator

24. Respondents shall retain one or more contractors to perform the Work. Respondents shall notify EPA of the names and qualifications of such contractors within five (5) days of the Effective Date. Respondents shall also notify EPA of the names and qualifications of any other contractors or subcontractors retained to perform the Work under this Order at least thirty (30) days prior to commencement of such Work. EPA retains the right to disapprove of any, or all, of the contractors and/or subcontractors retained by Respondents. If EPA disapproves of a selected contractor, Respondents shall retain a different contractor within twenty-one (21) days following EPA's disapproval and shall notify EPA of that contractor's name and qualifications within thirty (30) days of EPA's disapproval.

25. Within five (5) days after the Effective Date, Respondents shall designate a Project Coordinator who shall be responsible for administration of all actions by Respondents required by the Order. Respondents shall submit to EPA the designated coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. EPA retains the right to disapprove of any Project Coordinator named by Respondents. If EPA disapproves of a selected Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within twenty-one (21) days following EPA's disapproval. Receipt by Respondents' Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by all Respondents.

26. EPA has designated Jim MacDonald of the Emergency and Enforcement Response Branch, Region VII, as its On-Scene Coordinator ("OSC") and Paul Roemerman of the Kansas/Missouri Remedial Branch as the Project Coordinator.

27. EPA and Respondents shall have the right, subject to Paragraph 24, to change their designated OSC or Project Coordinator. Respondents shall notify EPA 10 days before such a change is made. The initial notification may be made orally, but Respondents shall provide written notice within five (5) days of such change.

B. Work to Be Performed

28. Statement of Work Respondents shall perform all actions necessary to implement the Statement of Work (SOW), attached to this Order as Appendix 5 and incorporated into this Order. The SOW generally requires, but is not limited to, the following:

- a. Demolition of each building, piece by piece, from the roof down, and approved measures to control dust.
- b. Excavation of soils surrounding the building to the action levels and disposal of contaminated soils at either a sanitary landfill if PCBs are present at levels below 50 parts per million (ppm) or to a landfill permitted under the Toxic Substances Control Act (TSCA) if the soils are above 50 ppm. Excavated portions of the site to be backfilled to surrounding grade.
- c. Assistance to businesses located in the vicinity of the Ewing facility, including, but not limited to, temporary relocation.

29. Removal Work Plan

- a. Within twenty (20) days after the effective date of this Order, Respondents shall submit to EPA for approval and provide a copy to the States a Removal Work Plan ("Work Plan") which documents the strategy for performing the design, construction, and reporting of the Removal Actions at the Site. The Work Plan shall provide for design of the Removal Actions set forth in the Action Memoranda, in accordance with the SOW, and for achievement of the cleanup standards set forth in the Action Memoranda, this Consent Order and the SOW. Respondents shall include in the Work Plan the elements listed in Section VI., Task 1 of the SOW.
- b. EPA will review the draft Work Plan consistent with Section VIII (EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS) of this Order. If required, Respondents shall resubmit the Work Plan to address EPA's comments within fifteen (15) days of receipt of EPA's comments. The Work Plan shall be incorporated into and become enforceable under this Consent Order upon its approval by EPA.

30. Removal Design

- a. Within thirty (30) days after approval of the Work Plan, Respondents shall submit for approval the Preliminary (30%) Design. The 30% Design shall include at a minimum, the information required by Section VI., Task 2 of the SOW.
- b. Within thirty (30) days after approval of the 30% Design, Respondents shall submit for approval the 95% Design which shall include at a minimum, the information required by Section VI., Task 2 of the SOW.
- c. Within thirty (30) days of receipt of EPA's comments on the 95% Design, Respondents shall submit for approval the Final Design which addresses EPA's comments and includes at a minimum, the information required by Section VI., Task 2 of the SOW.

31. Removal Actions

Fifteen (15) days after approval of the Final Design, Respondents shall participate with EPA and the States in a preconstruction inspection and meeting as described in Section VI, Task 3 of the SOW. Ten (10) days after the preconstruction meeting, Respondents shall perform the Removal Actions as detailed in the Final Design, taking into account any matters addressed by EPA and the States during such preconstruction meeting. Unless otherwise directed by EPA, Respondents shall not commence physical Removal Action activities at the Site prior to the preconstruction meeting. No later than ten (10) days after completion of construction, Respondents shall notify EPA and the States for the purpose of conducting a prefinal inspection as discussed in Section VI., Task 3 of the SOW. Within ten (10) days after the preliminary project inspection and upon completion of any outstanding construction items, Respondents shall notify EPA and the States for the purpose of conducting a final inspection as discussed in Section VI., Task 3 of the SOW.

32. Quality Assurance and Sampling

- a. All sampling and analyses performed pursuant to this Order shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures. Respondents shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with the appropriate EPA guidance. Respondents shall follow the following documents, as appropriate, as guidance for QA/QC and sampling: "Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures," OSWER Directive No. 9360.4-01; "Environmental Response Team Standard Operating Procedures," OSWER Directive Nos. 9360.4-02 through 9360.4-08.
- b. Upon request by EPA, Respondents shall arrange for EPA to submit samples for analysis to the same laboratory Respondents use in order to perform quality-assurance monitoring. Respondents shall provide to EPA the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis.
- c. Upon request by EPA, Respondents shall allow EPA or its authorized representatives to take split and/or duplicate samples. Respondents shall notify EPA not less than ten (10) days in advance of any sample collection activity, unless shorter notice is agreed to by EPA. EPA shall have the right to take any additional samples that EPA deems necessary. Upon request, EPA shall allow Respondents to take split or duplicate samples of any samples it takes as part of its oversight of Respondents' implementation of the Work.

C. Reporting

33. Respondents shall submit daily written reports by facsimile mail or electronic mail

to EPA and the appropriate State during demolition activities, using the form attached to the SOW. At the conclusion of demolition activities, Respondents may request, and EPA may approve, a change from submitting daily reports to submitting monthly written progress reports. If approved, Respondents shall submit the monthly progress reports to EPA and the appropriate State beginning on the date EPA designates in its written approval and continuing until termination of this Order, unless otherwise directed in writing by the OSC or the EPA Project Coordinator. These reports shall describe all significant developments during the preceding period, including but not limited to i) actions performed and any problems encountered; ii) analytical data received during the reporting period; iii) deviations from any approved activities, including, but not limited to, a change in haul route; iv) report on what was done with the waste not manifested; v) report on any exceedance of Total Suspended Particulate Matter; vi) total weight of the debris shipped off-site; and vii) developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

34. Final Report Within thirty (30) days after completion of all Work required by this Order, Respondents shall submit for EPA review and approval a final report summarizing the actions taken to comply with this Order. The final report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC Reports" and OSWER Directive No. 9360.3-03, "Removal Response Reporting." The final report shall include a listing of quantities and types of materials removed off-Site or handled on-Site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destination of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action in legible form (e.g., manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

"Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

D. Off-Site Shipments

35. Prior to any off-Site shipment of Waste Material from the Site to an out-of-state waste management facility, Respondents shall obtain from the proposed receiving facility and submit to EPA a written certification that the proposed receiving facility is operating in compliance with CERCLA Section 121(d)(3) and the Off-Site Rule, 40 CFR § 300.440 (b). Respondents shall send Waste Material from the Site only to an off-site facility that complies with the requirements of the Off-Site rule and CERCLA.

VII. NOTICES AND SUBMISSIONS

36. Whenever, under the terms of this Consent Order, written notice is required to be given or a report or other document is required to be sent by one Party to another, unless designated to an individual, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Order with respect to EPA, the States, Respondents, and Federal Respondents respectively.

EPA:

One copy to Jim MacDonald, On-Scene Coordinator
U.S. EPA - Region VII
Superfund Division - Emergency Response Branch
901 N. Fifth Street
Kansas City, KS 66101

Six copies to Paul Roemerman, Project Manager
U.S. EPA - Region VII
Superfund Division - Missouri/Kansas Remedial Branch
901 N. Fifth Street
Kansas City, KS 66101

State of Missouri

One copy to Candace McGhee
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102

State of Kansas

One copy to Dan Gravatt
Kansas Department of Health and Environment
Forbes Field Bldg 740
Topeka, Kansas 66620-0001

Respondents

Federal Respondents

Chief, Environmental Defense Section
United States Department of Justice
Environment and Natural Resources Division
P.O. Box 23986
Washington, D.C. 20026-3986

re: DJ #90-5-1-1-4231

and

Bruce Noble
Defense Logistics Agency
74 N. Washington Ave.
Battle Creek, MI 49017

VIII. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

37. After review of any plan, report or other item which is required to be submitted for approval pursuant to this Consent Order, EPA, after reasonable opportunity for review and comment by the States, shall (a) approve, in whole or in part; (b) approve upon specified conditions; (c) modify to cure the deficiencies; (d) disapprove, in whole or in part, directing that the Respondents modify; or (e) any combination of the above. However, EPA shall not modify a plan or submission without first providing Respondents at least one notice of deficiency and an opportunity to cure within fifteen (15) days, except where to do so would cause serious disruption to the Work or where previous submission(s) have been disapproved due to material defects and the deficiencies in the submission under consideration indicate a bad faith lack of effort to submit an acceptable deliverable.

38. In the event of approval, approval upon conditions, or modification by EPA, pursuant to Paragraph 37a, b, or c, Respondents shall proceed to take any action required by the plan, report, or other item, as approved or modified by EPA, subject only to their right to invoke the Dispute Resolution procedures set forth in Section XVII (DISPUTE RESOLUTION) with respect to the modifications or conditions made by EPA. In the event that EPA modifies the submission to cure the deficiencies pursuant to Paragraph 37c and the submission has a material defect, EPA retains its right to seek stipulated penalties, as provided in Section XIX (STIPULATED PENALTIES).

39. Resubmission of Plans Upon receipt of a notice of disapproval pursuant to Paragraph 37d, Respondents shall, within fifteen (15) days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the plan, report, or other item for approval. Any stipulated penalties applicable to the submission, as provided in Section XIX, shall accrue during the fifteen (15) day period or otherwise specified period but shall not be

payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 38 and 40.

40. Notwithstanding the receipt of a notice of disapproval pursuant to Paragraph 37d, Respondents shall proceed, at the direction of EPA, to take any action required by any non-deficient portion of the submission. Implementation of any non-deficient portion of a submission shall not relieve Respondents of any liability for stipulated penalties under Section XIX (STIPULATED PENALTIES).

- a. In the event that a resubmitted plan, report or other item, or portion thereof, is disapproved by EPA, EPA may again require the Respondents to correct the deficiencies, in accordance with the preceding Paragraphs. EPA also retains the right to modify or develop the plan, report or other item. Respondents shall implement any such plan, report, or item as modified or developed by EPA, subject only to their right to invoke the procedures set forth in Section XVII (DISPUTE RESOLUTION).
- b. If upon resubmission, a plan, report, or item is disapproved or modified by EPA due to a material defect, Respondents shall be deemed to have failed to submit such plan, report, or item timely and adequately unless the Respondents invoke the dispute resolution procedures set forth in Section XVII (DISPUTE RESOLUTION) and EPA's action is overturned pursuant to that Section. The provisions of Section XVII (DISPUTE RESOLUTION) and Section XIX (STIPULATED PENALTIES) shall govern the implementation of the Work and accrual and payment of any stipulated penalties during Dispute Resolution. If EPA's disapproval or modification is upheld, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XIX.
- c. All plans, reports, and other items required to be submitted to EPA under this Consent Order shall, upon approval or modification by EPA, be enforceable under this Order. In the event EPA approves or modifies a portion of a plan, report, or other item required to be submitted to EPA under this Consent Order, the approved or modified portion shall be enforceable under this Consent Order.

IX. SITE ACCESS

41. Respondents shall use their best efforts to obtain all necessary access agreements within twenty-one (21) days after the Effective Date, or as otherwise specified in writing by the OSC. Respondents shall immediately notify EPA if, after using their best effort, they are unable to obtain such agreements. Except with regard to gaining access from the owners of the Wyandotte facility and the Ewing facility, "best efforts" includes the payment of reasonable sums of money in consideration of access. Respondents shall describe in writing their efforts to obtain access. EPA may then assist Respondents in gaining access, to the extent necessary to

effectuate the response actions described herein, using such means as EPA deems appropriate. Respondents shall reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XV (PAYMENT OF RESPONSE COSTS).

42. Notwithstanding any provision of this Consent Order, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA and any other applicable statutes or regulations.

X. ACCESS TO INFORMATION

43. Respondents shall provide to EPA, upon request, copies of all documents and information within their possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Order, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Respondents shall also make available to EPA, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

44. Respondents may assert business confidentiality claims covering part or all of the documents or information submitted to EPA under this Order to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when they are submitted to EPA, or if EPA has notified Respondents that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA, the public may be given access to such documents or information without further notice to Respondents.

45. Respondents may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Respondents assert such a privilege in lieu of providing documents, they shall provide EPA the with the following: (a) the title of the document, record, or information; (b) the date of the document, record, or information; (c) the name and title of the author of the document, record, or information; (d) the name and title of each addressee and recipient; (e) a description of the contents of the document, record, or information; and (f) the privilege asserted by Respondents. However, no documents, reports or other information created or generated pursuant to the requirements of the Order shall be withheld from EPA on the grounds that they are privileged.

46. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or

engineering data, or any other documents or information evidencing conditions at or around the Site.

XI. RECORD RETENTION

47. Until ten (10) years after Respondents' receipt of EPA's notification pursuant to Section XXIX (NOTICE OF COMPLETION), each Respondent shall preserve and retain all records and documents now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or liability of any person for response actions conducted and to be conducted at the Site, regardless of any corporate retention policy to the contrary. Until ten (10) years after Respondents' receipt of EPA's notification pursuant to Section XXIX (NOTICE OF COMPLETION), Respondents shall also instruct their contractors and agents to preserve all documents, records, and information of whatever kind, nature or description relating to performance of the Work.

48. At the conclusion of this document retention period, Respondents shall notify the EPA at least ninety (90) days prior to the destruction of any such records or documents, and, upon request by the EPA, Respondents shall deliver any such records or documents to EPA. Respondents may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondents assert such a privilege, they shall provide EPA with the (a) title of the document, record, or information; (b) date of the document, record, or information; (c) name and title of the author of the document, record, or information; (d) name and title of each addressee and recipient; (e) description of the subject of the document, record, or information; and (f) privilege asserted by Respondents. However, no documents, reports or other information created or generated pursuant to the requirements of the Consent Order shall be withheld on the grounds that they are privileged.

49. Each Respondent hereby certifies individually that, to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information relating to its potential liability regarding the Site since notification of potential liability by the EPA and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) of CERCLA, 42 U.S.C. §§ 9604(e).

50. The United States acknowledges that each Federal Respondent: (1) is subject to all applicable Federal record retention laws, regulations, and policies; and (2) has certified that it has fully complied with any and all EPA requests for information pursuant to Section 104(e) and 122(e) of CERCLA, 42 U.S.C. 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. 6927.

XII. COMPLIANCE WITH OTHER LAWS

51. Respondents shall perform all actions required pursuant to this Order in accordance with all applicable local, state, and federal laws and regulations except as provided in Section

121(e) of CERCLA, 42 U.S.C. § 6921(e), and 40 C.F.R. § 300.415 (j). In accordance with 40 C.F.R. § 300.415 (j), all on-Site actions required pursuant to this Order shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements ("ARARs") under federal environmental or state environmental or facility siting laws.

XIII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

52. In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action. Respondents shall take these actions in accordance with all applicable provisions of this Order, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondents shall also immediately notify the OSC at (913) 551-7767 or, in the event of his unavailability, the Project Coordinator at (913) 551-7694. In the event that Respondents fail to take appropriate response action as required by this Section, and EPA takes such action instead, Respondents shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XV (PAYMENT OF RESPONSE COSTS).

53. In addition, in the event of any release of a hazardous substance from the Site, Respondents shall immediately notify the OSC at (913)551-7767, EPA Region VII at the 24 hour emergency spill hotline at (913)281-0991, and the National Response Center at (800) 424-8802. Respondents shall submit a written report to EPA within seven days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11001, *et seq.*

XIV. AUTHORITY OF THE EPA ON-SCENE COORDINATOR

54. The OSC and the Project Coordinator shall be jointly responsible for overseeing Respondents' implementation of this Order. The OSC and the Project Coordinator shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any Work required by this Order, or to direct any other removal action undertaken at the Site. Absence of the OSC or the Project Coordinator from the Site shall not be cause for stoppage of Work unless specifically directed by the OSC or the Project Coordinator.

XV. PAYMENT OF RESPONSE COSTS

55. Payment by Respondents Within thirty (30) days after receiving a billing from EPA, Respondents shall pay Future Response Costs (excluding Future Oversight Costs), as defined in Section III herein, by certified or cashier's checks made payable to "EPA Hazardous Substances Superfund," mailed to the following address:

Mellon Bank
Superfund Accounting
EPA Region VII- Comptroller Branch
P.O. Box 360748M
Pittsburgh, Pennsylvania 15251

Each check shall reference EPA Region VII, PCB Treatment, Inc. Superfund Site, ID #07RJ and #07RK, the EPA Docket Number _____, and the name and address of the parties making payment. Copies of checks paid pursuant to this Section, and any accompanying transmittal letters, shall be sent to the Project Coordinator.

56. In the event that the payment is not made within thirty (30) days of receipt of the bill, Respondents shall pay Interest on the unpaid balance. Interest is established at the rate specified in Section 107(a) of CERCLA. The Interest to be paid shall begin to accrue on the date of the Respondents' receipt of the bill. Interest shall accrue at the rate specified through the date of the payment. Payments of Interest made under this paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondents' failure to make timely payments under this Section.

57. Respondents may dispute all or part of a bill submitted under this Order, if Respondents allege that EPA has made an accounting error, or if Respondents allege that a cost item is inconsistent with the NCP.

58. If any dispute over costs is resolved before payment is due, the amount due will be adjusted as necessary. If the dispute is not resolved before payment is due, Respondents shall pay the full amount of the uncontested costs into the Hazardous Substance Fund as specified above on or before the due date. Within the same time period, Respondents shall pay the full amount of the contested costs into an interest-bearing escrow account. Respondents shall simultaneously transmit a copy of both checks to the EPA Project Coordinator. If Respondents do not prevail in their dispute over costs, they shall pay EPA the amount due from the escrow funds, plus Interest, within ten days after the dispute is resolved.

59. Payment by Federal Respondents

a. As soon as reasonably practicable after the occurrence of the relevant milestones described immediately below, the United States, on behalf of the Federal Respondents, shall pay Respondents 33% of the costs that Respondents incur (in performing the Work) and that EPA approves. Payment shall be made by sending a check through certified mail to the Respondent identified in Section VIII (NOTICES AND SUBMISSIONS) with a copy to EPA. Federal Respondents shall transmit payments according to the following schedule.

MILESTONE	PAYMENT
1. As soon as reasonably practicable after the Effective Date.	\$2,500,000, as initial payment towards reimbursement of 33% of total costs incurred by Respondents and approved by EPA.
2. As soon as reasonably practicable after EPA issues a certification of completion of the Removal Action at 2100 Wyandotte Street.	33% of costs incurred by Respondents that are approved by EPA
3. As soon as reasonably practicable after EPA issues a certification of completion of the Removal Action at 45 Ewing Street.	33% of costs incurred by Respondents that are approved by EPA, but not to exceed 33% of all costs Respondent incurs and EPA approves

b. After all costs have been paid by Federal Respondents in accordance with the schedule above, Respondents shall calculate the total costs in performing the Work that were approved by EPA. If Federal Respondents have paid Respondents less than 33% of the total approved costs, Respondents shall calculate the difference between the costs paid and the costs owed and transmit the calculation to EPA. EPA will review the calculation and send a bill to Federal Respondents for the additional amount owed, as calculated or approved by EPA. Federal Respondents shall then make payment for any such amount as soon as reasonably practicable.

c. In the event that payments required by this Paragraph 59 are not made within 121 days of the occurrence of each milestone described immediately above in Subparagraphs 59(a) & (b), interest on the amount due in connection, with such milestone shall be paid at the rate established pursuant to section 107(a) of CERCLA, 42 U.S.C. § 9607(a), commencing on the 1st day after the date of the milestone and accruing through the date of the payment.

d. The Parties to the Order recognize and acknowledge that the payment obligations of the Federal Respondents under this Order can only be paid from appropriated funds legally available for such purpose. Nothing in this Order shall be interpreted or construed as a commitment or requirement that any Federal Respondent obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable provision of law.

XVI. DISBURSEMENT OF SPECIAL ACCOUNT FUNDS

60. Within 60 days after EPA deposits payments from *de minimis* settlers, as defined in Section III herein, in the PCB Treatment, Inc. Special Account, EPA shall establish a new special account, the PCB Treatment, Inc. Disbursement Special Account, within the EPA Hazardous Substance Superfund. EPA shall transfer all but \$1,500,000 of the funds from the PCB Treatment, Inc. Special Account into the PCB Treatment, Inc.

Disbursement Special Account.

61. EPA will make a portion of the funds in the PCB Treatment, Inc. Disbursement Special Account, including Interest earned on the funds, available for disbursement to Respondents as partial reimbursement for performance of the Work. Respondents may receive up to, but not exceeding, 29% of the costs they incurred and EPA approves unless the PCB Treatment, Inc. Disbursement Special Account lacks sufficient funds to equal 29% of the costs incurred by Respondents or EPA determines that i) a milestone, described in the table below has not been achieved, or ii) reporting requirements described in Paragraph 62 below have not been met. In no event shall Respondents be reimbursed more than the balance in the Disbursement Special Account.

MILESTONE	DISBURSEMENT
1. EPA approval of the Design for Removal Action at 2100 Wyandotte Street	29% of costs incurred plus \$145,000
2. EPA approval of completion of removal activities on the fourth floor of the 2100 Wyandotte Street building	29% of further costs incurred plus \$145,000
3. EPA Certification of Completion of the Removal Action at 2100 Wyandotte Street	29% of further costs incurred
4. EPA approval of the Design for Removal Action at 45 Ewing Street	29% of further costs incurred
5. EPA approval of completion of removal activities on the third floor of the 45 Ewing Street building	29% of further costs incurred
6. EPA Certification of Completion of the Removal Action at 45 Ewing Street	29% of further costs incurred
7. EPA Certification that Additional Response Actions, if required, have been completed	29% of costs incurred

62. As a condition of disbursement of funds upon the achievement of any milestone, Respondents shall meet the requirements set forth below.

- a. Reporting Requirements Beginning on the 10th day of the month following the month this Consent Order becomes effective, Respondents shall submit to EPA on a monthly basis a summary of the costs incurred in performing the Work during the previous month.

b. Requests for Disbursement of Special Account Funds.

(i) Within thirty (30) days of issuance of EPA's written confirmation that a milestone of the Work, as listed in Paragraph 61, has been satisfactorily completed, Respondents shall submit to EPA a Cost Summary and Certification covering the Work performed pursuant to this Order up to the date of completion of that milestone. Respondents shall not include in any submission costs included in a previous Cost Summary and Certification following completion of an earlier milestone of the Work if those costs have been previously submitted, unless Respondent did not have complete cost information for a previous milestone at the time the milestone was reached. The Cost Summary shall include invoices for the costs incurred in performing the Work and a description of that Work.

(ii) A Cost Summary and Certification - The Cost Summary shall address the necessary costs that are consistent with the National Contingency Plan incurred and paid by Respondents for the Work covered by the particular submission, excluding costs not eligible for disbursement under Paragraph 62(c). The Cost Summary shall consist of a description of Work performed to support each cost item and documentation (invoices, receipts, etc.) that each cost item was paid. The Certification shall contain the following statement signed by the **Independent Certified Public Accountant**:

"To the best of my knowledge, after thorough investigation and review of Respondents' documentation of costs incurred and paid for Work performed pursuant to this Consent Order, ["up to the date of completion of milestone 1," "between the date of completion of milestone 1 and the date of completion of milestone 2," "between the date of completion of milestone 2 and the date of completion of the milestone 3," "between the date of completion of milestone 3 and the date of completion of the milestone 4," "between the date of completion of milestone 4 and the date of completion of the milestone 5," "between the date of completion of milestone 5 and the date of completion of the milestone 6," "between the date of completion of milestone 6 and the date of completion of the milestone 7".] I certify that the information contained in or accompanying this submittal is true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment."

(iii) The **Independent Certified Public Accountant** shall also provide EPA a list of the documents that he or she reviewed in support of the Cost Summary and Certification. Upon request by EPA, Respondents shall submit to EPA any additional information that EPA deems necessary for its review and approval of a Cost Summary and Certification.

(iv) If EPA finds that a Cost Summary and Certification includes a mathematical accounting error, costs excluded under Paragraph 62(c), costs that are inadequately documented, or costs submitted in a prior Cost Summary and Certification, EPA will notify Respondents to provide an opportunity to cure the deficiency by submitting a revised Cost Summary and Certification. If Respondents fail to cure the deficiency within forty-five (45) days after being notified of, and given the opportunity to cure the deficiency, EPA will recalculate Respondents' costs eligible for disbursement for that submission and disburse the corrected amount to Respondents in accordance with the

procedures in this Section. Respondents may dispute EPA's recalculation under this Paragraph pursuant to Section XIX (DISPUTE RESOLUTION). In no event shall Respondents be disbursed funds from the PCB Treatment, Inc. Disbursement Special Account in excess of amounts properly documented in a Cost Summary and Certification accepted or modified by EPA. In no event shall Respondents be disbursed funds from the PCB Treatment, Inc. Disbursement Special Account in excess of amounts available for disbursement in the PCB Treatment, Inc. Disbursement Special Account.

c. Costs Excluded from Disbursement. The following costs are excluded from, and shall not be sought by Respondents for, disbursement from the PCB Treatment, Inc. Special Account:

(i) payments made by Respondents to the United States pursuant to this Order, including, but not limited to, Future Response Costs and payments made under Section XIX (STIPULATED PENALTIES);

(ii) attorneys' fees and costs;

(iii) costs of any response activities Respondents perform that are not required under this Order or approved by EPA through this Order;

(iv) costs related to litigation, settlement, investigation, development of potential contribution claims or identification of defendants;

(v) internal costs of Respondents, including but not limited to, salaries, travel, or in-kind services, except for those costs that represent the work of employees of Respondents directly performing the Work;

(vi) any costs incurred by Respondents pursuant to Section XVII (DISPUTE RESOLUTION).

d. Termination of Disbursements from the Disbursement Special Account. EPA's obligation to disburse funds from the PCB Treatment, Inc. Disbursement Special Account under this Order shall terminate upon EPA's determination that Respondents have:

(i) knowingly submitted a materially false or misleading Cost Summary and Certification;

(ii) submitted a materially inaccurate or incomplete Cost Summary and Certification, and have failed to correct the materially inaccurate or incomplete Cost Summary and Certification within fifteen (15) days after being notified of, and given the opportunity to cure, the deficiency; or

(iii) failed to submit a Cost Summary and Certification as required by Paragraph 62b within fifteen (15) days (or such longer period as EPA agrees) after being notified that EPA intends to terminate its obligation to make disbursements pursuant to this Section

because of Respondents' failure to submit the Cost Summary and Certification as required by this Paragraph. EPA's obligation to disburse funds from the PCB Treatment, Inc. Disbursement Special Account shall also terminate upon EPA's assumption of performance of any portion of the Work pursuant to Paragraph 83, when such assumption of performance of the Work is not challenged by Respondents or, if challenged, is upheld under Section XVII (DISPUTE RESOLUTION). Respondents may dispute EPA's termination of special account disbursements under Section XVII (DISPUTE RESOLUTION).

e. Recapture of Special Account Disbursements. Upon termination of disbursements from the PCB Treatment, Inc. Disbursement Special Account under Paragraph 62d, if EPA has previously disbursed funds from the PCB Treatment, Inc. Disbursement Special Account for activities specifically related to the reason for termination (*e.g.*, discovery of a materially false or misleading submission after disbursement of funds based on that submission), EPA shall submit a bill to Respondents for those amounts already disbursed from the PCB Treatment, Inc. Disbursement Special Account specifically related to the reason for termination, plus Interest on that amount covering the period from the date of disbursement of the funds by EPA to the date of repayment of the funds by Respondents. Within thirty (30) days of receipt of EPA's bill, Respondents shall reimburse the Hazardous Substance Superfund for the total amount billed by a certified or cashier's check or checks made payable to "EPA Hazardous Substance Superfund," referencing the name and address of the party making payment, PCB Treatment, Inc. Superfund Site/Spill ID #07RJ and #07RK. Respondents shall send the check(s) to the Mellon Bank at the address indicated in Paragraph 55. At the time of payment, Respondents shall send notice that payment has been made to the EPA Regional Financial Management Officer and the Project Coordinator at the address set forth in Section VIII (NOTICES AND SUBMISSIONS). Upon receipt of payment, EPA may deposit all or any portion thereof in the PCB Treatment, Inc. Special Account, the PCB Treatment, Inc. Disbursement Special Account, or the Hazardous Substance Superfund. The determination of where to deposit or how to use the funds shall not be subject to challenge by Respondents pursuant to the dispute resolution provisions of this Order or in any other forum. Respondents may dispute EPA's determination as to recapture of funds pursuant to Section XVIII (DISPUTE RESOLUTION).

f. Balance of Special Account Funds. After EPA issues its written Certification of Completion to Respondents and completes all disbursements to Respondents in accordance with this Section, if any funds remain in the PCB Treatment, Inc. Disbursement Special Account, EPA may use such funds as EPA deems appropriate. The decision by EPA on use of remaining funds shall not be subject to challenge by Respondents pursuant to the dispute resolution provisions of this Order or in any other forum.

XVII. DISPUTE RESOLUTION

63. Unless otherwise expressly provided for in this Consent Order, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Consent Order. Any dispute arising under this Consent Order shall first be subject to informal negotiations between the parties. The period for informal negotiations shall not exceed fourteen (14) days from the time the dispute arises, unless modified by written agreement of the parties to the dispute. The dispute shall be considered to have arisen when one party sends the other parties a written Notice of Dispute.

64. In the event that the parties cannot resolve a dispute by informal negotiations, then the position advanced by EPA shall be binding unless, within seven (7) days after the conclusion of the informal negotiation period, Respondents invoke the formal dispute resolution procedures of this Section by serving on EPA a written Statement of Position on the matter in dispute including, but not limited to, any factual data, analysis or opinion supporting that position and any supporting documentation relied upon by Respondents. Within fourteen (14) days after receipt of Respondents' Statement of Position, EPA will serve on Respondents its Statement of Position including, but not limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by EPA. Disputes pertaining to the selection or adequacy of any response action and all other disputes that are accorded review on the administrative record under applicable principles of administrative law shall be on the administrative record. An administrative record of the dispute shall be maintained by EPA and shall contain all statements of position, including supporting documentation, submitted pursuant to this Section.

65. If the parties reach agreement on the dispute, the agreement shall be in writing, signed by both parties, and shall upon signature by both parties be incorporated into and become an enforceable part of this Order. If the parties are unable to reach an agreement within twenty-one (21) days of Respondents' receipt of EPA's Statement of Position, or such longer period as agreed to by both parties, the Branch Chief of the Missouri/Kansas Remedial Branch or his/her successor in the Region VII Superfund Division will issue a written decision on the dispute to Respondents. The decision of EPA shall be incorporated into and become an enforceable part of this Order. Respondents' obligations under this Order shall not be tolled by submission of any issue for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondents shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs. No EPA decision made pursuant to this Section shall constitute a final agency action giving rise to judicial review.

XVIII. FORCE MAJEURE

66. Respondents agree to perform all requirements under this Order within the time limits established under this Order, unless the performance is delayed by a *force majeure*. For purposes of this Order, a *force majeure* is defined as any event arising from causes beyond the control of Respondents, or of any entity controlled by Respondents, including but not limited to their contractors and subcontractors, that delays or prevents performance of any obligation under this Order despite Respondents' best efforts to address the effects of any potential *force majeure*.

event (1) as it is occurring, and (2) following the potential force majeure event, such that the delay is minimized to the greatest extent possible. *Force majeure* does not include financial inability to complete the work or increased cost of performance.

67. If any event occurs or has occurred that may delay the performance of any obligation under this Order, whether or not caused by a *force majeure* Respondents shall notify EPA within forty-eight (48) hours of when Respondents first knew that the event might cause a delay. Within seven (7) days thereafter, Respondents shall provide to EPA in writing an explanation and description of the reasons for the delay, the anticipated duration of the delay, all actions taken or to be taken to prevent or minimize the delay, a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay, Respondents' rationale for attributing such delay to a *force majeure* if they intend to assert such a claim, and a statement as to whether, in the opinion of Respondents, such event may cause or contribute to an endangerment to public health, welfare or the environment. Respondents shall include with any notice all available documentation supporting their claim that the delay was attributable to a *force majeure*. Failure to comply with the above requirements shall preclude Respondents from asserting any claim of *force majeure* for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Respondents shall be deemed to know of any circumstance of which Respondents, any entity controlled by Respondents, or Respondents' contractors knew or should have known.

68. If EPA agrees that the delay or anticipated delay is attributable to a *force majeure*, the time for performance of the obligations under this Order that are affected by the *force majeure* will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure*, EPA will notify Respondents in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure*, EPA will notify Respondents in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure*.

69. If Respondents elect to invoke the dispute resolution procedures set forth in Section XVII (DISPUTE RESOLUTION), they shall do so no later than fifteen (15) days after receipt of EPA's notice. In any such proceeding, Respondents shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a *force majeure*, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Respondents complied with the requirements of Paragraph 67 above. If Respondents carry this burden, the delay at issue shall be deemed not to be a violation by Respondents of the affected obligation of this Order identified to EPA.

XIX. STIPULATED PENALTIES

70. Respondents shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 71 and 72 for failure to comply with the requirements of this Order specified below, unless excused under Section XVIII (FORCE MAJEURE). "Compliance" by Respondents shall include completion of the activities under this Order or Work Plan or other plan approved under this Order identified below in accordance with all applicable requirements of law, this Order, the SOW, and any plans or other documents approved by EPA pursuant to this Order and within the specified time schedules established by and approved under this Order.

71. Stipulated Penalty Amounts - Work and Response Cost Payments.

The following stipulated penalties shall accrue per violation per day for any failure to comply with requirements for completion of all Work Plans, Removal Design, Removal Action at Wyandotte Street, and Removal Action at Ewing Street:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 2000	1st through 14th day
\$ 3500	15th through 30th day
\$ 5000	31st day and beyond

72. Stipulated Penalty Amounts - Reports.

The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate progress reports or other written documents pursuant to Paragraphs 33, 34, 39, 40, 53, 67, 95, and 97 or failure to pay the amount due into an escrow account pursuant to Paragraph 58.

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 1000	1st through 14th day
\$ 1500	15th through 30th day
\$ 2000	31st day and beyond

73. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 83 of Section XXI, Respondents shall be liable for a stipulated penalty in the amount of \$ 5,000,000.

74. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue:

- a. with respect to a deficient submission under Section IX (WORK TO BE PERFORMED), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Respondents of any deficiency; and
- b. with respect to a decision made by the Branch Chief of the Missouri/Kansas Remedial

Branch in the Region VII Superfund Division on during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA management official issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Order.

75. Following EPA's determination that Respondents have failed to comply with a requirement of this Order, EPA may give Respondents written notification of the failure and describe the noncompliance. EPA may send Respondents a written demand for payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Respondents of a violation.

76. All penalties accruing under this Section shall be due and payable to EPA within thirty (30) days of Respondents' receipt from EPA of a demand for payment of the penalties, unless Respondents invoke the dispute resolution procedures under Section XVII (DISPUTE RESOLUTION). All payments to EPA under this Section shall be paid by certified or cashier's checks made payable to "EPA Hazardous Substances Superfund," shall be mailed to the address set forth in Paragraph 55. Each check shall indicate that the payment is for stipulated penalties, and shall reference the EPA Region and Site/Spill ID #07RJ and #07RK, the EPA Docket Number _____, and the name and address of the parties making payment. Copies of checks paid pursuant to this Section, and any accompanying transmittal letters, shall be sent to the EPA Project Coordinator at the address set forth in Section VII (NOTICES).

77. The payment of penalties shall not alter in any way Respondents' obligation to complete performance of the Work required under this Order.

78. Penalties shall continue to accrue as provided in Paragraph 74 during any dispute resolution period, but need not be paid until the following: If the dispute is resolved by agreement or by a decision of EPA, accrued penalties determined to be owing shall be paid to EPA within fifteen (15) days of the agreement or the receipt of EPA's decision or order.

79. If Respondents fail to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Respondents shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand. Nothing in this Order shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this Order or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Sections 106(b) and 122(l) of CERCLA, 42 U.S.C. §§ 9606(b) and 9622(l). Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Order.

XX. COVENANTS BY EPA

80. In consideration of the actions that will be performed by Respondents and the payments that will be made by the Federal Respondents under the terms of this Order, and except as otherwise specifically provided in this Order, EPA covenants not to sue or to take administrative action against Respondents or Federal Respondents pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for performance of the Work and for

recovery of Past Response Costs and Future Response Costs. EPA covenants not to take administrative action against Federal Respondents for any failure to perform their obligations under this Order except as otherwise reserved herein. The EPA's covenants shall take effect with respect to Respondents upon EPA's approval of Respondents' Completion of Work pursuant to Paragraph 105 of Section XXIX (NOTICE OF COMPLETION). EPA's covenants not to take administrative action against the Federal Respondents shall take effect upon notice of receipt by Respondents of the Federal Respondents' payments as required by Paragraph 59 of Section XV (PAYMENT OF RESPONSE COSTS). These covenants extend only to Respondents and Federal Respondents and do not extend to any other person.

XXI. RESERVATIONS OF RIGHTS BY EPA

81. Except as specifically provided in this Order, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

82. The covenants set forth in Section XX above do not pertain to any matters other than those expressly identified therein. EPA reserves, and this Order is without prejudice to, all rights against Respondents or Federal Respondents with respect to all other matters, including but not limited to:

- a. claims based on a failure by Respondents or the Federal Respondents to meet a requirement of this Order;
- b. liability for violations of federal or state law which occur during or after implementation of the Removal Actions;
- c. liability for performance of response action other than the Removal Actions;
- d. criminal liability;
- e. liability for damages for injury to destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- f. Liability for costs incurred or to be incurred that are not within the definitions of Past Response costs or Future Response Costs; and
- f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site.

83. Work Takeover. In the event EPA determines that Respondents have ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in their

performance of the Work, or are implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portions of the Work as EPA determines necessary. Respondents may invoke the procedures set forth in Section XVII (DISPUTE RESOLUTION) to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. Costs incurred by the United States in performing the Work pursuant to this Paragraph shall be considered Future Response Costs that Respondents shall pay pursuant to Section XV (PAYMENT OF RESPONSE COSTS). Notwithstanding any other provision of this Consent Decree, the United States retains all authority and reserves all rights to take any and all response actions authorized by law.

XXII. COVENANT NOT TO SUE BY RESPONDENTS

84. Respondents agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, or this Order, including but not limited to any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law, or any claims arising out of response activities at the Site.

85. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

86. Respondents agree not to assert any claims and to waive all claims or causes of action that they may have for all matters relating to the Site, including for contribution, against any person where the person's liability to Respondents with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if the materials contributed by such person to the Site containing hazardous substances did not exceed 0.002% of the total volume of allocated waste at the Site. This waiver shall not apply to any claim or cause of action against any person meeting the above criteria if EPA has determined that the materials contributed to the Site by such person contributed or could contribute significantly to the costs of response at the Site. This waiver also shall not apply with respect to any defense, claim, or cause of action that a Respondent may have against any person if such person asserts a claim or cause of action relating to the Site against such Respondent.

87. Respondents agree not to assert any claims and to waive all claims or causes of action that they may have for all matters relating to the Site, including for contribution, against any person that has entered into a *de minimis* settlement under Section 122(g) of CERCLA, 42 U.S.C. § 9622(g), which EPA has signed with respect to the Site as of the Effective Date of this Consent Order. This waiver shall not apply with respect to any defense, claim, or cause of action that a Respondent may have against any person if such person asserts a claim or cause of action relating to the Site against such Respondent.

XXIII. OTHER CLAIMS

88. By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or EPA shall not be deemed a party to any contract entered into by Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Order.

89. Except as expressly provided in Section XX (COVENANTS BY EPA) and Section XXII (COVENANT NOT TO SUE BY RESPONDENTS), nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and Interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

90. No action or decision by EPA pursuant to this Order shall give rise to any right to judicial review except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XXIV. CONTRIBUTION PROTECTION

91. The Parties agree that Respondents and Federal Respondents are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for "Matters Addressed" in this Order, as defined in Section III (DEFINITIONS). Except as provided in Section XX (COVENANTS BY EPA) and Section XXII (COVENANT NOT TO SUE BY RESPONDENTS), nothing in this Order precludes the United States or Respondents or Federal Respondents from asserting any claims, causes of action or demands against any persons not parties to this Order for indemnification, contribution, or cost recovery.

XXV. INDEMNIFICATION AND INSURANCE

92. The United States does not assume any liability by entering into this Order or by virtue of any designation of Respondents as EPA's authorized representatives under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e). Respondents shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Order, including but not limited to, any claims arising from any designation of Respondents as EPA's authorized representatives under Section 104(e) of CERCLA. In addition, Respondents agree to pay the United States all costs incurred by the United States, including but not limited to attorneys fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, subcontractors and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Order. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondents in carrying out activities pursuant to this Order. Neither Respondents nor any such contractor shall be considered an agent of the United States.

93. The United States shall give Respondents notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondents prior to settling such claim.

94. Respondents waive all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays. In addition, Respondents shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays.

95. No later than fifteen (15) days before commencing any on-Site Work, Respondents shall secure, and shall maintain until EPA's Notice of Completion, comprehensive general liability insurance with limits of \$20 million dollars, combined single limit, and automobile liability insurance with limits of \$2 million dollars, combined single limit, naming EPA as an additional insured. In addition, for the duration of this Order, Respondents shall ensure that their contractors or subcontractors satisfy all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondents in furtherance of this Order. Prior to commencement of the Work, Respondents shall provide EPA certificates of such insurance and a copy of each insurance policy. If Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Respondents need to provide only that portion of the insurance which is not maintained by such contractor or subcontractor.

XXVI. FINANCIAL ASSURANCE

96. Within thirty (30) days of the Effective Date of this Order, Respondents shall establish and maintain financial security in the amount of \$35,000,000 in one or more of the following forms:

- a. A surety bond guaranteeing performance of the Work;
- b. One or more irrevocable letters of credit equaling the total estimated cost of the Work;
- c. A trust fund;
- d. A guarantee to perform the Work by one or more parent corporations or subsidiaries, or by one or more unrelated corporations that have a substantial business relationship with at least one of Respondents; or
- e. A demonstration that one or more of Respondents satisfy the requirements of 40 C.F.R. Part 264.143(f).

97. If Respondents seek to demonstrate the ability to complete the Work through a guarantee by a third party pursuant to Paragraph 96d of this Section, Respondents shall demonstrate that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f). If Respondents seek to demonstrate their ability to complete the Work by means of the financial test or the corporate guarantee pursuant to Paragraph 96d or e of this Section, they shall resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date. In the event that EPA determines at any time that the financial assurances provided pursuant to this Section are inadequate, Respondents shall, within thirty (30) days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 96 of this Section. Respondents' inability to demonstrate financial ability to complete the Work shall not excuse performance of any activities required under this Order.

98. If, after the Effective Date, Respondents can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 95 of this Section, Respondents may, on any anniversary date of the Effective Date, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Respondents shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security upon approval by EPA. In the event of a dispute, Respondents may reduce the amount of the security in accordance with the written decision resolving the dispute.

99. Respondents may change the form of financial assurance provided under this Section at any time, upon notice to and approval by EPA, provided that the new form of assurance meets the requirements of this Section. In the event of a dispute, Respondents may change the form of the financial assurance only in accordance with the written decision resolving the dispute.

XXVII. MODIFICATIONS

100. Modifications to any plan or schedule may be made in writing by the mutual agreement of the Project Coordinators. Any other modifications to this Order may only be done in writing by mutual agreement of the Parties.

101. If Respondents seek permission to deviate from any approved Work Plan or schedule, Respondents' Project Coordinator shall submit a written request to EPA for approval outlining the proposed Work Plan modification and its basis.

102. If EPA determines that modification to the Work specified in the SOW or Work Plan is necessary to achieve and maintain the Performance Standards or to maintain the effectiveness of the Removal Actions set forth in the Action Memoranda, EPA may require that such modification be incorporated into the SOW or Work Plan. If Respondents object to any modification determined by EPA to be necessary pursuant to this Paragraph, they may seek dispute resolution pursuant to Section XVI (DISPUTE RESOLUTION). The SOW or Work Plan shall be modified in accordance with final resolution of the dispute. Respondents shall implement any Work required by any modifications incorporated in the SOW and Work Plan in accordance with this Paragraph. Respondents acknowledge and agree that nothing in this

Consent Order, the SOW, or the Work Plan constitutes a warranty or representation of any kind by EPA that compliance with the Work requirements set forth in the SOW and the Work Plan will achieve the Performance Standards.

103. No informal advice, guidance, suggestion, or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by Respondents shall relieve Respondents of their obligation to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order, unless it is formally modified.

XXVIII. ADDITIONAL REMOVAL ACTIONS

104. If EPA determines that additional removal actions not included in an approved plan or in the Action Memoranda are necessary to protect public health, welfare, or the environment, EPA will notify Respondents of that determination. Unless otherwise stated by EPA, within thirty (30) days of receipt of notice from EPA that additional removal actions are necessary to protect public health, welfare, or the environment, Respondents shall submit for approval by EPA a Work Plan for the additional removal actions. The plan shall conform to the applicable requirements of Section IX (WORK TO BE PERFORMED) of this Order. Upon EPA's approval of the plan pursuant to Section IX, Respondents shall implement the plan for additional removal actions in accordance with the provisions and schedule contained therein. This Section does not alter or diminish the OSC's authority to make oral modifications to any plan or schedule pursuant to Section XXVII (MODIFICATIONS).

XXIX. NOTICE OF COMPLETION

105. When EPA determines, after EPA's review of the Final Report, that all Work has been fully performed in accordance with this Order, with the exception of any continuing obligations required by this Order, including post-removal site controls or record retention, EPA will provide notice to Respondents. If EPA determines that any Work has not been completed in accordance with this Order, EPA will notify Respondents, provide a list of the deficiencies, and require that Respondents modify the Work Plan if appropriate in order to correct such deficiencies. Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Respondents to implement the approved modified Work Plan shall be a violation of this Order.

XXX. PUBLIC COMMENT

106. The provisions in this Order shall be subject to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i), which requires EPA to publish notice of the proposed settlement in the Federal Register, to provide persons who are not parties to the proposed settlement an opportunity to comment, solely, on the cost recovery component of the settlement, and to consider comments filed in determining whether to consent to the proposed settlement. EPA may withhold consent from, or seek to modify, all or part of this Order if comments received disclose facts or considerations which indicate that this Order is inappropriate, improper or inadequate. Otherwise, this Order shall become effective when EPA issues notice to Respondents that public comments received, if any, do not require EPA to modify or withdraw from the Order.

XXXI. SEVERABILITY/INTEGRATION/APPENDICES

107. If a court issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated or determined to be subject to a sufficient cause defense by the court's order.

108. This Order and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Order. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in the Order. The following appendices are attached to and incorporated into this Order:

Appendix 1 - List of Respondents
Appendix 2 - List of Federal Respondents
Appendix 3 - Action Memoranda
Appendix 4 - Legal Description
Appendix 5 - Statement of Work

XXXII. ATTORNEY GENERAL APPROVAL

109. Before commencement of the thirty (30) day public comment period, the Attorney General or her designee must approve the settlement embodied in this Consent Order in accordance with Section 122(g)(4) of CERCLA, 42 U.S.C. § 9622(g)(4).

XXXIII. EFFECTIVE DATE

110. This Order shall be effective when EPA issues notice to Respondents and Federal Respondents that public comments received, if any, do not require EPA to modify or withdraw from this Order.

For the United States Environmental Protection Agency, Region VII

Audrey B. Asher
Senior Assistant Regional Counsel
U. S. Environmental Protection Agency
Region VII

Date

It is so ORDERED

Michael J. Sanderson
Director, Superfund Division
U.S. Environmental Protection Agency
Region VII

DATE: _____

Administrative Order on Consent

CERCLA Docket No.

PCB Treatment, Inc. Superfund Site

The undersigned representatives of Respondents certifies that they are fully authorized to enter into the terms and conditions of this Order and to bind the parties they represents to this document.

Agreed this ____ day of _____, 2001.

By _____

Title _____

APPENDIX 1

RESPONDENTS SIGNING ON BEHALF OF THEMSELVES

CONSOLIDATED EDISON COMPANY OF NEW YORK
HIGH VOLTAGE MAINTENANCE CORPORATION
JERSEY CENTRAL POWER & LIGHT COMPANY
MIDAMERICAN ENERGY COMPANY
SIERRA PACIFIC COMPANY
UTILICORP
WASTE MANAGEMENT, INC.

RESPONDENTS REPRESENTED BY PCB TREATMENT, INC. STEERING COMMITTEE

GENERATOR NAME	OTHER NAME
903 NORTH MAIN STREET PROPERTY	
A & N ELECTRIC	
ABB AIR PREHEATER	(C-E Air Preheater)
ACME ELECTRIC COMPANY	
ADAMS COUNTY COOPERATIVE ELECTRIC COMPANY	(Adams County REC)
ADVANCE MILWAUKEE BRUSHES, INC.	(Advance Brushes, Inc.)
AFTON, CITY OF	
AG PROCESSING INCORPORATED	
AGRILINK FOODS	(Husman Snack Foods)
AGRIUM US	(Cominco American Inc.)
ALABAMA ELECTRIC COOPERATIVE	
ALAMEDA, CITY OF	(Bureau of Elect. Dept. of Utilities)
ALGOMA UTILITY COMMISSION	(Algoma Municipal Utilities)
ALLIEDSIGNAL, INC.	(Allied Corporation)
AM GENERAL	(Ren Acquisition)
AMCAST INDUSTRIAL CORPORATION	
AMERICAN ELECTRONIC	(Dura-Kool)
AMERICAN HOME PRODUCTS	(Shulton Inc.)
AMERICAN STANDARD, INC.	(American Standard Enamel and Iron Plant)
AMHERST MUNICIPAL UTILITIES	(Amherst, City of)
AMPACET CORPORATION	
ANCHOR HOCKING PLASTICS	(Plastics Inc.)
ANDERSON, CITY OF	(Anderson Municipal Light & Power)

AP AUTOMOTIVE SYSTEMS	(A.P. Parts Company)
APPERT FOODS	(Apperts Inc)
ARCO	
ARISTECH	(USS Chemicals Division US Steel)
ARIZONA ELECTRIC POWER COOP. INCORPORATED	
ARMCO INC.	(Cyclops Corporation)
ARROW FORKLIFT PARTS, INCORPORATED	
ASHLAND MUNICIPAL POWER PLANT	
ASHLAND PETROLEUM COMPANY	
ASSOCIATED MILK PRODUCERS	(AMPI)
ASSOCIATES FIRST CAPITAL CORP.	(Associates Bancorp, Inc./Associates Corp. of North America)
ATLANTIC MUNICIPAL UTILITIES	
ATLAS CRANKSHAFT	
AUSTIN UTILITIES	
AVESTA SHEFFIELD PLATE, INC.	(Ingersol Steel)
A.O. SMITH CORPORATION	(A.O. Smith Auto Products Co.)
BAGLEY PUBLIC UTILITIES	
BAILEY COUNTY ELECTRIC COOPERATIVE	
BAINBRIDGE, TOWN OF	(Bainbridge Municipal Elec. System)
BARC ELECTRIC COOPERATIVE	Barc
BASF CORPORATION	(BASF & Inmont Corporation)
BASIN ELECTRIC POWER COOPERATIVE	
BATAVIA, CITY OF	
BAYFIELD ELECTRIC	
BEATRICE BOARD OF PUBLIC WORKS	
BEAZER EAST, INC.	(Koppers Company)
BEDFORD RURAL ELECTRIC COOP	
BELOIT, CITY OF	(Beloit Municipal Power)
BEMIS COMPANY INC.	
BENTON COUNTY PUD DIST. NO. 1	
BENTON RURAL ELECTRIC ASSOCIATION	
BETHANY, CITY OF	
BETHLEHEM STEEL	(Drummond Dolomite Incorporated)
BF GOODRICH	
BICC CABLES CORPORATION	(Cablec Corporation)
BIG BEND ELECTRIC COOPERATIVE, INC.	
BLACK HILLS ELECTRIC COOPERATIVE	
BLISSFIELD MANUFACTURING COMPANY	(Berne Tube Products Co, Inc.)
BLUE HILL ELECTRIC DEPARTMENT	
BLUE HILL, CITY OF	(Blue Hill Light & Water Dept.)
BOC GROUP, THE	(Airco Carbon)
BOEING VERTOL	

BOHN ALUMINUM AND BRASS DIV PLT 9	
BON HOMME-YANKTON ELECTRIC ASSOCIATION	
BOONE RURAL ELECTRIC MEMBERSHIP CORPORATION	(Boon County REMC)
BOUNTIFUL CITY LIGHT & POWER	
BOUNTIFUL CITY POWER & ELECTRIC	
BOWLING GREEN, CITY OF	
BRADSHAW, VILLAGE OF	
BRECK SCHOOL ICE CENTER	
BREDA ELECTRIC SYSTEM	
BREESE, CITY OF	(City of Breese Light & Water)
BRIDGEPORT BRASS CORPORATION	
BRISTOL-MYERS SQUIBB COMPANY	(E.R. Squibb Corporation)
BROWN COUNTY REA	
BRYAN, CITY OF	(Bryan Municipal Power & Light)
BRYN MAWR HOSPITAL	
BUCHANAN COUNTY REC	
BUCKEYE STEEL CASTINGS	
BUFFALO GENERAL HOSPITAL	
BURT COUNTY PUBLIC POWER DISTRICT	
BUTLER COUNTY RPPD	
BUTLER TACONITE	
BUTTE ELECTRIC COOPERATIVE	
CABOT CORPORATION	
CAIRO LIGHT & WATER DEPARTMENT	
CAMBRIDGE PUBLIC UTILITIES	
CARRIER CORPORATION	(BDP Company)
CARROLL COUNTY REMC	
CEDARBURG LIGHT & WATER COMPANY	
CENTER MUNICIPAL ELECTRIC LIGHT	
CENTRAL ARIZONA IRRIGATION & DRAINAGE DISTRICT	(Electrical District #4)
CENTRAL ELECTRIC COOP	
CENTRAL INDIANA POWER	(Hancock County REMC)
CENTRAL SOYA CO INC	
CENTRALIA, CITY OF	(Centralia Power & Light Dept.)
CERTAINTEED CORPORATION	
CHENEY PULP & PAPER COMPANY	
CHENEY, CITY OF	
CHEROKEE ELECTRIC COOPERATIVE	
CHIMNEY ROCK PUBLIC POWER DISTRICT	(Chimney Rock PPD)
CITIZENS GAS & COKE UTILITY	
CITIZENS UTILITIES	(Citizen Utility Water & Electric)

CITY ELECTRIC MOTOR COMPANY	
CLARKE ELECTRIC COOPERATIVE	
CLAVERACK RURAL ELECTRIC	
CLEVELAND TWIST DRILL	
CLEVELAND, CITY OF	
CLYDE IRON/UNITED DOMINION INDUSTRIES	(Clyde Company)
COCA-COLA BOTTLING MIDWEST	
CODINGTON-CLARK ELECTRIC COOPERATIVE	
COGGON MUNICIPAL LIGHT PLANT	
COLBY, CITY OF	(Colby Municipal Power & Light)
COLGATE PALMOLIVE	
COLLEGE OF ST. BENEDICT	
COLOR BOX	
COLORADO STATE UNIVERSITY	
COLUMBIA BASIN ELECTRIC COOPERATIVE INCORPORATED	
COMMUNITY HOSPITALS INDIANAPOLIS	(Community Hospital)
COMSAT	(Communications Satellite Corporation)
CONSOLIDATED ELECTRIC COOPERATIVE, INC.	(Delaware Rural & Morrow Electric Coop)
CONTEL DATA CENTER	
CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INCORPORATED	
CONTINENTAL GRAIN COMPANY	
COOKEVILLE ELECTRIC DEPARTMENT	
COOPER INDUSTRIES, INC.	(Iowa Industries Inc.)
CORTLAND COUNTY INDUSTRIAL DEVELOPMENT AGENCY	
COTTAGE GROVE HIGH SCHOOL	
COVINGTON, CITY OF	
CRAIG-BOTETOURT	
CRISP COUNTY POWER COMMISSION	
CROUSE-HINDS COMPANY	
CROW WING COOP POWER & LIGHT COMPANY	
DAHLBERG LIGHT & POWER	
DAL-TILE INTERNATIONAL	(American Olean Tile Company)
DAVIDSON COLLEGE	
DAVIESS-MARTIN COUNTY REMC	
DAWSON COUNTY PUBLIC POWER DISTRICT	
DAYTON HUDSON CORPORATION	
DEACONESS COMMUNITY FOUNDATION	(Deaconess Hospital)
DELTA FAUCET COMPANY	
DEMETER AGRO INCORPORATED	
DETROIT, CITY OF	
DEZURIK CORPORATION	
DIAMOND SHAMROCK CHEMICALS COMPANY	(Electro Analytical)
DICKENS ELECTRIC COOPERATIVE	

DORCHESTER, NEBRASKA ELECTRIC DEPARTMENT	(Dorchester, Village of)
DOTHAN ELECTRIC DEPARTMENT, CITY OF	
DOWAGIAC, CITY OF	(Dowagiac Dept. of Public Service)
DRAKE CENTER	(Drake Memorial Hospital)
DRAKE UNIVERSITY	
DUNCANNON, BOROUGH OF	(Duncannon Borough)
DURAMED PHARMACEUTICALS INC	
EAST END MUTUAL ELECTRIC COMPANY	
EAST GRAND FORKS WATER & LIGHT	
EAST POINT ELECTRIC	
EASTERN ILLINI ELECTRIC COOPERATIVE	(Illini Electric Cooperative)
EASTERN IOWA LIGHT & POWER	
EASTMAN MACHINE COMPANY	
EAU CLAIRE ELECTRIC COOPERATIVE	
EDISON SAULT ELECTRIC COMPANY	
EL DORADO SPRINGS BPU	
ELASTIC FABRICS OF AMERICA	
ELBERON DEVELOPMENT CORPORATION	
ELDON, CITY OF	(Eldon Municipal)
ELECTRIC MOTORS AND SPECIALTIES INCORPORATED	(Electric Motor Spec.)
ELECTRIC PLANT BOARD	(Franklin Electric Plant Board)
ELK RIVER MUNICIPAL UTILITIES	
ELKEM METALS COMPANY	
ELKHORN R.P.P.D.	
ELLENSBURG, CITY OF	
ELLIS, CITY OF	
ENGLEHARD CORPORATION	(Hardshaw Filtrol)
EPHRATA, BOROUGH OF	
ERMCO ELECTRICAL CONTRACTORS	
ESSROC CEMENT CORP.	(Rochester Portland Cement)
ESTES PARK, TOWN OF	(Estes Park Power & Light Co.)
EXXON BIO MEDICAL CORPORATION	
E.I. DUPONT DE NEMOURS	
FAIRFIELD MFG CO INC	
FANNIN COUNTY ELECTRIC COOPERATIVE	
FARMER JACK/A&P MARKETS	(Detroit Pure Milk Company)
FARMINGTON, CITY OF	(Farmington Electric Utility)
FEDERAL MOGUL	
FEDERAL MOGUL CORPORATION	
FEM ELECTRIC ASSOCIATION, INCORPORATED	
FERGUSON ELECTRIC SERVICE COMPANY	(Ferguson Electric Construction)
FITZPATRICK & WELLER	

FLOUR CITY BRUSH	
FONTANELLE, CITY OF	(Fontanelle Electric)
FORD METER BOX CO INC	
FORT JAMES CORPORATION	(James River Corporation)
FORT PIERCE UTILITIES AUTHORITY	
FOSTER WHEELER CORPORATION	(F.W. Environsponse Incorporated)
FRANK LUCCO COMPANY	
FRANKLIN ELECTRIC CO.	
FRANKLIN LIGHT AND POWER	(Franklin Light & Water)
FRANKLIN MINT	
FRANKLIN RURAL ELECTRIC COOPERATIVE	
FREEBORN-MOWER ELECTRIC COOPERATIVE	
FREEDOM FORGE CORPORATION	(American Welding & Manufacturing)
FRIDAY CANNING CORPORATION	
FRONTIER POWER COMPANY	
FROSTBURG STATE COLLEGE	
FT. MORGAN ELECTRIC DEPARTMENT	
F.M. BROWN'S SONS, INC.	
GAINESVILLE, CITY OF	(Gainesville Regional Utilities)
GATE CITY ELECTRIC COOPERATIVE, INCORPORATED	
GENERAL CRUSHED STONE	
GENERAL MOTORS CORPORATION	
GENERAL RAILWAY SIGNAL	
GENESIS WORLDWIDE INC.	(Monarch Machine Tool Company)
GEORGETOWN UNIVERSITY	
GLOBE VALVE	
GOTHENBURG, CITY OF	(Gothenburg Mun. Electric Systems)
GRAFTON MUNICIPAL UTILITY	
GRAND ISLAND, CITY OF	
GRAND VALLEY RURAL POWER LINES	(Grand Vally Rural Power Inc.)
GRAYSON-COLLIN ELECTRIC COOPERATIVE, INC.	
GREAT LAKES GAS TRANSMISSION	
GREDE FOUNDRIES	(Roberts Foundry)
GREEN MOUNTAIN POWER CORPORATION	
GREENDALE UTILITIES	(Town of Greendale Utility Dept.)
GREENE ELECTRIC DEPARTMENT, VILLAGE OF	
GREENFIELD MUNICIPAL UTILITIES	
GREENWOOD COMMISSION OF PUBLIC	
GRJ HOLDINGS, INCORPORATED	(Bell Cold Storage)
GROTON, CITY OF	(Groton Electric Light & Power)
GROUP HEALTH INCORPORATED	(Group Health Plan)
GTE SERVICE CORP. II	(General Telephone Company of Indiana))
GUERNSEY-MUSKINGUM ELECTRIC COOP.	

GUNNISON, CITY OF	
HALE PRODUCTS	(Hale Fire Pump Company)
HAMILTON, CITY OF	(Hamilton Public Electric)
HAMILTON, VILLAGE OF	
HAMMOND VALVE CORP.	
HAMPTON, VILLAGE OF	
HARLAN MUNICIPAL	
HARRIS TARKETT	
HARRIS THOMAS DROP FORGE CO.	
HARRISBURG, CITY OF	
HARRISON STEEL CASTINGS CO.	
HARSCO TRACK TECHNOLOGIES	(Fairmont Tamper/Fairmont Railway Motors)
HATFIELD, BOROUGH OF	(Hatfield Municipal Electric)
HEALTH EAST MIDWAY	(Midway Hospital)
HENRY FILTERS COMPANY	
HIBBING PUBLIC UTILITY	
HIGHLAND, CITY OF	(Highland Electric Department)
HILLSDALE BOARD OF PUBLIC UTILITIES	
HOBART BROTHERS COMPANY	
HOBART CORPORATION	
HOECHST CELANESE CORPORATION	
HOLDREGE, CITY OF	(Holdrege Municipal Power & Light)
HOLMES WAYNE ELECTRIC	
HOLY CROSS ELECTRIC ASSOCIATION	
HOWARD GREELEY RPPD	
HOWELL OREGON ELECTRIC COOPERATIVE	
HOWMET CORPORATION	(Howmet Turbine Components Corporation)
HUDSON FOODS	(Lea Foods)
HYSTER COMPANY	
IFF	(International Flavors & Fragrances)
ILLINOIS RURAL ELECTRIC COMPANY	
INDIANA MICHIGAN POWER COMPANY	(Indiana & Michigan Electric Co.)
INDIANAPOLIS ELECTRIC COMPANY	
INTERCOUNTY ELECTRIC ASSOCIATION, INC.	
INTERSTATE BRANDS CORPORATION	(ITT Continental Baking Company)
INTERSTATE TRANSFORMER COMPANY, INC.	
IOWA LAKES ELECTRIC COOP.	
JACKSON PURCHASE ELECTRIC COOPERATIVE	
JAMES RIVER LIMESTONE	
JEFFERSON SMURFIT CORPORATION	(Container Corp of America)
JERRY'S FOODS	
JEWELL-MITCHELL COOPERATIVE	(Jewell-Mitchell REA)
JIM BEAM BRANDS CO.	(National Distillers Products Company)

JOE WHEELER ELECTRIC MEMBERSHIP
 JOHN MORRELL & COMPANY
 JONES METAL PRODUCT COMPANY
 JOSEPH E. SEAGRAM & SONS INCORPORATED
 J.C. PENNEY COMPANY, INC.
 KANKAKEE VALLEY REMC
 KANSAS STATE UNIVERSITY
 KARNES ELECTRIC COOPERATIVE
 KAUKAUNA ELECTRIC & WATER
 KBR RURAL PPD
 KENDAL CROSSLANDS
 KENNAMETAL, INCORPORATED
 KEYNES BROS. INC.0
 KIEL, CITY OF (Keil Utilities)
 KIMBALL MUNICIPAL UTILITY
 KINGSBURY ELECTRIC COOPERATIVE, INCORPORATED
 KOOTENAI ELECTRIC COOPERATIVE, INCORPORATED
 KRAVCO COMPANY (Krazco Company)
 KUTZTOWN, BOROUGH OF
 LAGRANGE COUNTY REMC
 LAKE REGION ELECTRIC ASSOCIATION, (Lake Region Electric Cooperative)
 INCORPORATED
 LAKE WORTH, CITY OF
 LAKEFIELD PUBLIC UTILITY
 LAMB COUNTY ELECTRIC COOPERATIVE
 LANGFORD ELECTRIC COMPANY
 LATROBE STEEL COMPANY
 LAUHOFF GRAIN COMPANY
 LEAR CORPORATION (Lear siegler Inc)
 LEHIGH PORTLAND CEMENT CO.
 LEHIGHTON, BOROUGH OF
 LIGHTHOUSE ELECTRIC COOPERATIVE, INCORPORATED
 LINCOLN-UNION ELECTRIC COOPERATIVE
 LINCOLN COUNTY POWER DISTRICT
 LINCOLN ELECTRIC COOPERATIVE
 LINK-BELT BEARING DIVISION (PTC Components)
 LINTON MUNICIPAL LIGHT DEPARTMENT
 LITTLE VALLEY, VILLAGE OF
 LOCKHEED MARTIN CORPORATION (Martin Marietta/General Electric)
 LOGAN COUNTY COOPERATIVE ASSOCIATION
 LOGANSPOUT MUNICIPAL UTILITIES (Logansport Municipal Electric)
 LONG ELECTRIC COMPANY
 LONGVIEW PROPERTIES

LONGWOOD GARDENS	
LOOMIS ELECTRIC	
LOST RIVER ELECTRIC COOPERATIVE, INC.	
LOUIS PADNOS IRON AND METAL COMPANY	
LOVELAND, CITY OF	(Loveland Light & Power Dept.)
LUBRIZOL CO	
LYON-LINCOLN ELECTRIC COOPERATIVE, INC.	
M & M MARS	
MACK PRINTING GROUP	
MANITOWOC, CITY OF	(Manitowoc Public Utility)
MAPLEHURST FARMS LLC	(Maplehurst Dairy Inc)
MAQUOKETA VALLEY RURAL ELECTRIC COOPERATIVE	
MARATHON ASHLAND PETROLEUM LLC	(Marathon Oil Company)
MARIAH PACKING COMPANY	
MARION ELECTRIC COOP, INC.	
MARION GENERAL HOSPITAL	
MARRIOTT HOTEL	
MARSHALL, CITY OF	
MASONIC HOMES	
MCDONOUGH POWER COOPERATIVE	
MCPHERSON-BOARD OF PUBLIC, CITY OF	
MEADVILLE FORGING CO	
MECKLENBURG ELECTRIC COOP	
MECKLENBURG ELECTRIC COOPERATIVE	
MEDICAL COLLEGE OF PA	
MEDTRONIC, INCORPORATED	
MEEKER COOPERATIVE LIGHT & POWER ASSOCIATION	
MEPC O & I	(MEPC Gamble Tower/Minneapolis West)
MERCY HOSPITAL MEDICAL CENTER	
MERCY HOSPITAL NORTH	
MESA, CITY OF	(Mesa Utilities)
MET ELECTRICAL TESTING COMPANY, INC.	
METAL MASTERS FOOD SERVICE EQUIPMENT COMPANY, INC.	
MIDWEST STEEL	
MILLER EADS CO INC	
MINNESOTA VALLEY COOPERATIVE LIGHT & POWER	
MINNESOTA VALLEY ELECTRIC COOPERATIVE	
MIRRO OF MANITOWOC	(Mirro Corporation)
MISSOULA ELECTRIC COOP	
MOEN, INC.	(Stanadyne)
MOHAVE ELECTRIC COOPERATIVE	
MOHAWK MUNICIPAL COMMISSION	
MONARCH MACHINE TOOL COMPANY	(Monarch Sidney)

MONONA COUNTY REC	
MONROE WATER, LIGHT & GAS COMMISSION	
MONTEREY COAL COMPANY	
MONTPELIER, VILLAGE OF	
MORRISON KNUDSEN	
MORTON INTERNATIONAL, INC.	(Morton Salt Company)
MOTION CONTROL INDUSTRIES	
MOUNT DORA, CITY OF	
MT. CARMEL PUBLIC UTILITY COMPANY	
MULTI-TEST MAINTENANCE CORPORATION	
NABISCO HOLDINGS CORP.	(Nabisco Brands, Inc.)
NATIONAL STARCH AND CHEMICAL COMPANY	
NATURAL GAS PIPELINE	
NAVASOTA VALLEY ELECTRIC	(Limestone Co. Electric Coop)
NEW HOLSTEIN PUBLIC UTILITIES	
NEW KNOXVILLE, VILLAGE OF	
NEW LISBAN LIGHT & WATER	
NISHNABOTNA VALLEY RURAL ELECTRIC COOPERATIVE	
NODAK ELECTRIC COOPERATIVE	(Nodak Rural Electric Coop)
NORRIS ELECTRIC COOPERATIVE	
NORTH ALABAMA ELECTRIC COOPERATIVE	
NORTH CENTRAL ELECTRIC COOPERATIVE	
NORTH CENTRAL PPD	
NORTH STAR ELECTRIC COOPERATIVE	
NORTHEAST NEBRASKA RPPD	
NORTHERN LIGHT, INCORPORATED	
NORTHERN PLAINS ELECTRIC COOPERATIVE	(Tri-County Electric Cooperative-Carrington)
NORTHERN WASCO COUNTY PUD	(Northern Wasco County People's)
NORTHRUP KING COMPANY	
NORTHWEST RURAL ELECTRIC COOPERATIVE	(Sioux Electric Coop Assn)
NORTHWEST RURAL PUBLIC POWER DISTRICT	
NORTHWESTERN PUBLIC SERVICES COMPANY	
NORTHWESTERN REC ASSN. INC.	
NUTONE, INC.	
NVF COMPANY	
OGDEN MUNICIPAL LIGHT DEPARTMENT	
OILGEAR	(Oil Gear Company)
OKLAHOMA CITY UNIVERSITY	
OLIVER MERCER ELECTRIC COOPERATIVE, INCORPORATED	
OPELIKA LIGHT & POWER DEPARTMENT	
ORCAS POWER & LIGHT COMPANY	
ORD, CITY OF	(Ord Light & Water Dept.)
OTIS ELEVATOR COMPANY	

OTSEGO ELECTRIC COOPERATIVE, INC.	
OTTER TAIL POWER COMPANY	
OWENS-ILLINOIS, INC.	
OWENS CORNING FIBERGLASS CORPORATION	
OXFORD MUNICIPAL LIGHT & WATER	
OXYCHEM	(Occidental Chemical Corporation)
PAULDING PUTNAN ELECTRIC	
PELLA, CITY OF	
PEMBERVILLE, VILLAGE OF	
PEND ORCILLE COUNTY PUBLIC UTILITY DISTRICT	(PUD #1 of Pend Orcille Co.)
PENN YAN MUNICIPAL UTILITIES	
PENTON PRESS	(Penton IPC)
PEPSI-COLA BOTTLING CO. OF WILMINGTON	
PIERRE, CITY OF	(Pierre Municipal Power & Light)
PIQUA, CITY OF	(Piqua Municipal Power Systems)
PLAINS ELECTRIC COMPANY	
POINTE COUPEE ELECTRIC MEMBERSHIP CORPORATION	
POLK COUNTY RPPD	
POLY INSTITUTE OF NEW YORK	
PPG INDUSTRIES INC	
PREMIX, INC.	
PRICE ELECTRIC	
PRINCE GEORGE ELECTRIC COOPERATIVE	
PT COMPONENTS INC.	
PUBLIC UTILITY DISTRICT NO. 1 OF MASON COUNTY	(Mason PUD #1)
PUBLIC UTILITY DISTRICT OF GRANT COUNTY	
PUD #2 OF PACIFIC COUNTY	
QUAKER OATS COMPANY	
RANTOUL, CITY OF	(Rantoul Light & Power)
RAYMOND CORPORATION	
READLYN, CITY OF	
RELTEC-POWERS	(Lorain Products)
RENVILLE SIBLEY COOPERATIVE POWER ASSOCIATION	(Rendvile Celby Coop Power)
RESINOID ENGINEERING CORPORATION	
RICH PRODUCTS CORPORATION	
RICHMOND POWER & LIGHT	David Osburn
RICK ELECTRIC	
RIDGE TOOL COMPANY	
RISING SUN UTILITIES	
RIVERSIDE ELECTRIC	
ROBBINS & MEYERS INC.	

ROCK-TENN COMPANY	
ROCK COUNTY ELECTRIC COOP	
ROCK RIVER WATER RECLAMATION DISTRICT	(Sanitary District of Rockford)
ROCKWELL INTERNATIONAL	
ROLLWAY BEARING DIVISION	
ROOSEVELT POWER DISTRICT	(Roosevelt PD)
ROWE MANUFACTURING	(Salem Frame Company)
RUNESTONE ELECTRIC ASSOCIATION	
RUSSELL, CITY OF	(Russell Municipal Power & Light)
RW SIDLEY, INC.	
S & W WASTE, INC.	
SABROSKE ELECTRIC, INC.	
SACRAMENTO MUNICIPAL UTILITY DISTRICT	
SANDUSKY PLASTICS, INC.	
SANTEE COOPER	
SANYO CORPORATION	
SCHMIDT BAKING COMPANY	
SCM GLIDDEN METALS COMPANY	
SCM METAL PRODUCTS	
SCOTT BRASS, INCORPORATED	
SCOTT PAPER COMPANY	
SENECA FOODS CORPORATION	(Kennett Canning Company)
SENECA FOUNDRY INCORPORATED	
SEPTA	
SEVIER COUNTY ELECTRIC SYSTEM	
SEWARD COUNTY RPPD	
SHENANDOAH VALLEY ELECTRIC COOPERATIVE	
SHENANGO, INC.	
SHERIDAN ELECTRIC COOPERATIVE	
SHERRILL, CITY OF	(Sherrill Power & Light)
SHINER, CITY OF	
SIEMENS POWER TRANSMISSION	(Landis & Gear)
SILAS BOLEF COMPANY	
SOLVAY, VILLAGE OF	
SOUTH CENTRAL ELECTRIC ASSOCIATION	
SOUTH ST. PAUL PUBLIC SCHOOLS	
SOUTHDOWN, INC.	(Kosmos & Portland Cement)
SOUTHEASTERN ILLINOIS ELECTRIC COOPERATIVE INCORPORATED	
SOUTHERN DUCTILE CASTING CORPORATION	
SOUTHERN ILLINOIS POWER COOPERATIVE	
SOUTHSIDE ELECTRIC COOPERATIVE	
SOUTHWEST CENTRAL RURAL ELECTRIC COOPERATIVE, CORPORATION	
SOUTHWEST PUBLIC POWER DISTRICT	

SPARTA MANUFACTURING	
SPOON RIVER ELECTRIC COOPERATIVE	
SPRINGVILLE CITY POWER & LIGHT	(Springville Municipal Power)
STANBERRY, CITY OF	
STANTON COUNTY PUBLIC POWER DISTRICT	
STAUFFER MANAGEMENT COMPANY	(Stauffer Chemical Company)
STEEL WAREHOUSE COMPANY, INC.	
STOUGHTON, CITY OF	
ST. CLOUD HOSPITAL	
ST. CROIX ELECTRIC COOPERATIVE	
ST. LOUIS MUNICIPAL ELECTRIC	
ST. LUKES HOSPITAL	
ST. PAUL COMPANY	
SUFFOLK COUNTY WATER AUTHORITY	
SULLIVAN COUNTY RURAL ELECTRIC	
SULLIVAN ELECTRIC	
SULLIVAN, CITY OF	
SWEETWATER ELECTRIC SYSTEM	
SWISHER ELECTRIC COOPERATIVE, INCORPORATED	
S.E. IOWA COOPERATIVE ELECTRIC	
TARKETT	(Tarkett, Inc.)
TEXAS INSTRUMENTS INC.	
THIEF RIVER FALLS WATER & LIGHT	
THOMASVILLE, CITY OF	
TIMKEN COMPANY	
TOMS FOODS	
TORO COMPANY	
TOSOH SMD, INC.	(Varian Specialty Metals)
TREDYFFRIN EASTTOWN SCHOOL DISTRICT	
TRENTON MUNICIPAL UTILITIES	
TRI-COUNTY ELECTRIC COOPERATIVE-HOOKER	
TRI-STATE GENERATION & TRANSMISSION ASSOCIATION, INC.	
TRICO ELECTRIC COOPERATIVE, INCORPORATED	(Tri-County Elec.-Tucson)
TURNER HUTCHINSON ELECTRIC	
TWIN COUNTY ELECTRIC POWER	
TWIN VALLEYS PUBLIC POWER DISTRICT	
TWO RIVERS WATER & LIGHT	
UNION CITY MOLD	
UNION PACIFIC	
UNION PACIFIC RESOURCES GROUP	(Champlin Petroleum Company)
UNION RURAL ELECTRIC COOPERATIVE, INCORPORATED	
UNISYS CORPORATION	(Sperry Corporation)
UNITED FOODS, INC.	

UNITED PROPERTIES	
UNITED RURAL ELECTRIC, INC.	
UNITED TECHNOLOGIES CORPORATION	(Hamilton Standard Control)
UNIVERSITY OF TOLEDO	
UNOCAL	(Union Oil of California)
URSCHAL LABORATORIES, INC.	
UTILITIES DISTRICT OF WESTERN INDIANA REMC	
VALLEY ELECTRIC ASSOCIATION	(Valley Co. Electric Coop)
VIBRATECH	(Hydraulics Houdaille Inc.)
VILLISCA MUNICIPAL POWER PLANT	
VINELAND, CITY OF	
W & M MANUFACTURING	
WADSWORTH ELECTRIC UTILITY	
WAHOO UTILITIES	
WARNER LAMBERT	
WARREN COUNTY REMC	
WASHINGTON ELECTRIC COOPERATIVE, INCORPORATED	
WATER WORKS & LIGHTING COMMISSION	(Wisconsin Rapids Municipal)
WATERLOO LIGHT & POWER	
WAUNAKEE UTILITIES	(Waunakee Municipal)
WAYNE FARMS DIVISION OF CONTINENTAL GRAIN	(Wayne Poultry Division of Continental Grain)
WCIA TV	
WEBSTER, CITY OF	
WESTERN FARMERS ELECTRIC COOPERATION	
WESTERVILLE, CITY OF	
WHEATLAND, TOWN OF	
WHETSTONE VALLEY ELECTRIC COOPERATIVE	
WHIRLPOOL CORPORATION	
WILKES-BARRE HOUSING AUTHORITY	
WILLIAM B. WOOD/CITY OF NORFOLK	
WINNEBAGO RURAL ELECTRIC COOP.	
WINONA STATE UNIVERSITY	
WITCO CHEMICAL CORPORATION	
WITHLACOOCHIE RIVER ELECTRIC	
WOODVILLE, VILLAGE OF	
WRAY, CITY OF	(Wray Municipal)
YELLOW SPRINGS, VILLAGE OF	
ZIEGLER COAL COMPANY	

APPENDIX 2 FEDERAL RESPONDENTS

BLUE PLAINS WASTE WATER TREATMENT
BOLLING AFB
BUREAU OF RECLAMATIONS
COLUMBIA, DISTRICT OF
DEFENSE LOGISTICS AGENCY
DEPARTMENT OF VETERANS AFFAIR
DOVER AFB
FEDERAL AVIATION ADMINISTRATION
GSA
JOB CORPS U. S. DEPARTMENT OF LABOR
LINCROFT ENTERPRISES
MCCLELLAN AFB
NATIONAL INSTITUTE OF HEALTH
NORFOLK, CITY OF
PRINCETON UNIVERSITY
SAN CARLOS IRRIGATION PROJECT
ST. PAUL POST OFFICE
US COAST GUARD
US POST OFFICE
US DEPARTMENT OF INTERIOR
USDOE / WESTERN AREA POWER
USDOE / FERMILAB
USDOE / STRATEGIC PETROLEUM RESERVE
USDOE / SOUTHWESTERN POWER

APPENDIX 3

Action Memorandum - 2100 Wyandotte Street, Kansas City, Missouri

Action Memorandum - 45 Ewing Street, Kansas City, Kansas



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

ENFORCEMENT ACTION MEMORANDUM

SUBJECT: Request for a Removal Action at PCB Treatment, Inc., Site
45 Ewing Street, Kansas City, Wyandotte County, Kansas

FROM: Pauletta R. France-Isetts, RPM *Pauletta R. France-Isetts*
Missouri/Kansas Remedial Branch

THRU: Steve Kovac, Chief *Steve Kovac*
Missouri/Kansas Remedial Branch

TO: Michael J. Sanderson, Director
Superfund Division

Site ID#: RJ

CERCLIS ID: KSD980963565

I. PURPOSE

The purpose of this Enforcement Action Memorandum is to request and document approval for a non-time-critical removal action at part of the PCB Treatment, Inc., site located at 45 Ewing Street, Kansas City, Wyandotte County, Kansas. Potentially responsible parties (PRPs) may perform this removal action. Therefore, no funding for an Environmental Protection Agency (EPA) implementation of this removal action is requested at this time. In the event that PRPs do not perform this removal action pursuant to an Administrative Order on Consent, EPA Region VII plans to issue a Unilateral Administrative Order to compel the PRPs to implement the removal action. No nationally significant issues exist at this site.

II. SITE CONDITIONS AND BACKGROUND

A. Site Description

A Removal Site Evaluation (RSE) study was conducted in accordance with the terms of an Administrative Order on Consent between a group of former PCB Treatment, Inc., (PCB, Inc.) customers and the EPA. The RSE included sample collection and analysis for areas in and around the structure located at 45 Ewing Street. Samples of the following media were collected and analyzed during the RSE: soils (surface and subsurface), groundwater, concrete dust, air, concrete cores, wipe, and sludge.

Analytical data for the samples collected indicated polychlorinated biphenyl (PCB) contamination at concentrations which represent a threat to human health and the environment. Action levels established after evaluation of risks to human health and the environment were exceeded in both interior and exterior samples. Interior samples indicated that both the walls and the floors are contaminated with PCBs. Soil samples, collected exterior to the structure, indicated PCB concentrations greater than the action levels. Groundwater contamination was detected, but at levels below the action level.

The portion of the site addressed by this Action Memorandum consists of a five-story building with a full basement and surrounding soils, see Figure 1. It is located at 45 Ewing Street, Kansas City, Kansas, see Figure 2. The building is a column and flat slab framing system structure with exterior masonry infilled walls and shares a common wall with a two-story building to the southeast. This property is bordered by buildings on the southeast and northwest, Ewing Street on the west and rail lines on the east. Historical uses of the property were generally for storage and light industry. Information from the 1990 U.S. Census indicates a population of about 3,022 within a one-mile radius of the site. The 1990 Census indicates that the population residing in the vicinity of the site are of Caucasian, African-American, and Hispanic origins.

There are two schools and day care centers, one hospital, one park, five food manufacturing facilities, and one wastewater treatment plant within a one-mile radius of the site. Thirty-two restaurants and bars are also present within this area.

This part of the site is located on a developed piece of property. The tract of land is flat-lying and underlain by alluvial deposits associated with the Kansas River. The Ewing Street property is located in the West Bottoms, an area that is being actively re-developed. Land use of the surrounding area is currently medium to heavy industrial.

Releases of materials contaminated with PCBs occurred during operations at the site. These releases were likely the result of spilled, splashed, leaked, or poured PCB-contaminated oil which came to be located in and on the floor, walls, and soils surrounding the building. Information gathered during the RSE indicates that all floors are contaminated with PCBs above health-based levels.

PCB, Inc., was authorized by the EPA pursuant to the Toxic Substances Control Act (TSCA) to treat and dispose materials containing PCBs. Historically, PCBs were commonly used as coolants and lubricants in transformers, capacitors, and other electrical equipment. The manufacture of PCBs stopped in the United States in 1977 due to evidence that they accumulate in the environment and cause harmful effects.

PCB, Inc., began operations at 45 Ewing Street in Kansas City, Kansas, during September 1984. Operations at the facility included: de-chlorination of PCB-contaminated oils and temporary storage of PCB items. The EPA granted PCB, Inc., a permit authorizing an alternate method of de-chlorinating oils contaminated with PCBs. During September 1984, PCB, Inc., requested that the permit be transferred to its wholly owned subsidiary, Environmental Resource Management, Inc., (ERMI) which would operate at 45 Ewing Street, Kansas City, Kansas. This request was approved. PCB, Inc., operated at both the 2100 Wyandotte and 45 Ewing Street locations through 1986. During this time period, PCB, Inc., operated under other names which included: PCB, Inc., of Missouri; PCB, Inc., of Kansas; Environmental Resource Management, Inc.; PCB, Inc.; and Envirocare (which acted as a marketing arm for the company).

Customers of PCB, Inc., included the federal government, rural electric cooperatives, utility companies, cities, states, and large and small businesses. During its period of operation, approximately 1,500 parties shipped materials contaminated with PCBs to the site, including transformers and capacitors. These items contained PCB concentrations ranging from about 50 parts per million (ppm) to nearly 100 percent PCBs. The total gross weight of materials sent to the site for treatment and disposal was in excess of 25 million pounds.

PCB, Inc., operated on all floors of the structure located at 45 Ewing Street. Shipments of PCB items from the 2100 Wyandotte Street facility were received on the first floor. Oil dechlorination was conducted on the first floor. The remaining floors were used for PCB item storage.

Annual TSCA inspections were made at the facility. Significant violations were observed during the 1985 TSCA inspection; a Notice of Violation was issued to PCB, Inc. PCB, Inc., was assessed a fine and required to "clean" close the facility when it ceased business operations. Inspections were much more frequent after 1985. Near the end of operations, inspections were occurring on a weekly basis. PCB, Inc., requested that its permits be renewed at the end of the three-year period. The EPA refused to renew the permits and PCB, Inc., ceased processing capacitors during late 1986 and ceased de-chlorinating oil during early 1987.

This site is not on nor has it been proposed for inclusion on the National Priorities List of sites.

B. Other Actions to Date

PCB Treatment, Inc., was inspected several times by EPA during its period of operation. These inspections identified permit violations and releases of PCB-contaminated oil.

The owners took various steps to attempt site clean up after PCB Treatment, Inc., ceased operations. These clean-up attempts were made between 1987 and 1991.

Site investigations, as a part of the EPA TSCA efforts, were initiated during 1989 and continued until 1992. The purpose of these investigations was to follow the progress of and evaluate the success of the various clean-up technologies. Analytical data generated as a result of EPA's investigations indicated that the clean-up technologies used were not effective in removing PCB contamination and may have resulted in PCBs migrating into the concrete matrix.

A group of former customers prepared an Engineering Evaluation/Cost Analysis (EE/CA) study for the site. This document was submitted to EPA, pursuant to an Administrative Order on Consent, during June 2000. Response technologies to address the PCB-contamination at the site were discussed and evaluated.

The EPA prepared an Executive Summary during June 2000 based on the information contained in the RSE and EE/CA. The Executive Summary identified the preferred removal action to include demolition of the structure and excavation of the PCB-contaminated soils. The materials generated by these activities are to be disposed at landfills licensed and authorized to accept the materials or sent to an off-site incinerator if the PCB concentrations require destruction. Previous clean-up attempts at the site, using washing, solvent rinsing, shot-blasting, scouring, etc., have not been successful and may have exacerbated the problems. Therefore, EPA has determined that the most effective way to remove the contamination and the resultant threat is to demolish the building and excavate the contaminated soils.

C. State and Local Authority Roles

The Kansas Department of Health and Environment (KDHE) has been an active participant during the site evaluation process. KDHE staff have been kept informed of all site-related activities. The Unified Government of Kansas City, Kansas, and Wyandotte County, Kansas, has been informed of site activities.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT

PCBs do not burn easily and are, therefore, good insulating material. They were used as coolants and lubricants in transformers, capacitors, and other electrical equipment. The manufacture of PCBs stopped in the United States in 1977 because of evidence that they build up in the environment and cause harmful effects to human health. PCBs have been designated hazardous substances pursuant to Section 310(b)(2)(A) of the Federal Water Pollution Control Act, 33 U.S.C. §1321(b)(2)(A), and have been listed as toxic pollutants pursuant to Section 307(a) of the Federal Water Pollution Control Act, 33 U.S.C. §1317(a). Products containing PCBs include: capacitors, transformers, regulators, old fluorescent lighting fixtures, electrical appliances containing PCB capacitors, old microscope oil, and hydraulic fluids.

People exposed to PCBs in the air for a long time have experienced irritation of the nose and lungs, and skin irritations, such as acne and rashes. PCBs have been found to cause cancer of the liver in rats. The U.S. Department of Health and Human Services, Public Health Service,

Agency for Toxic Substances and Disease Registry (ATSDR) has determined that PCBs may reasonably be anticipated to be carcinogens. The EPA has determined that PCBs are a possible human carcinogen.

As part of the RSE, a table was developed which identified the PCB concentrations which correlate with an unacceptable risk to human health. The table below presents the PCB clean-up levels that are risk based and specific to this site. These clean-up levels are based on a residential/commercial use of the site (based on projected land-use in the area).

Sample Type	Clean Up Level	Source
Wipe (surface concentration)	1 microgram per hundred square centimeter s(ug/100 cm ²)	Minimum Detection Limit (MDL)
Air (air concentrations)	0.5 ug/cubic meter (m ³)	MDL
Bulk Concrete (concentrations within concrete)	1 milligram/kilogram (mg/kg) or ppm	Toxic Substance Control Act 40 CFR Part 761.125
Segregation and disposal Value for Bulk Concrete (top one inch)	50 mg/kg	Toxic Substance Control Act 40 CFR Part 761.125
Soil (top 10 inches)	1 mg/kg or ppm	Toxic Substance Control Act 40 CFR Part 761.125 (c)(4)(v)
Soil (depths greater than 10 inches)	10 mg/kg or ppm	Toxic Substance Control Act 40 CFR Part 761.125(c)(4)(v)

The Site Characterization Report was completed during August 1999. This report concluded that all floors of the former PCB, Inc., facility located at 45 Ewing Street are contaminated with PCBs at concentrations above health-based levels. The contamination extends to stairwells, basement, and exterior areas, including soils. PCB concentrations in the building of up to 1,790 ppm have been detected at the site. PCB concentrations of 1,450 ppm have been detected in the soils. Health-based concentrations were exceeded on portions of all floors, with the first floor being the most heavily contaminated. PCBs were detected in groundwater at concentrations below the health-based action level. The action level for PCBs in soils (the point at which EPA requires a response action to protect human health and the environment) at the site is one ppm. A response action is clearly necessary to provide protection of human health and the environment.

IV. STATUTORY AND REGULATORY AUTHORITIES

Section 104 of the Comprehensive Environmental Response, Liability and Compensation Act, as amended, (CERCLA) and the regulations promulgated thereunder in the National Contingency Plan (NCP), 40 C.F.R. §300.415(b) provide that EPA may conduct a removal action when it determines that a release or threat of release of hazardous substances poses a substantial threat to human health or the environment. Under Section 106 of CERCLA, EPA can order a PRP to perform a removal action when EPA determines that there may be an imminent and substantial endangerment to public health, welfare, or the environment from the release of hazardous substances at a site. PCBs are hazardous substances as defined by CERCLA § 101(14).

The NCP at §300.415(b)(2) contains eight criteria or factors to be assessed when considering the need for a removal action. Several of these criteria apply to this removal action and are as follows.

A. Specific Criteria Applicable to this Removal Action

1. Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants, or contaminants

Humans could be exposed to the PCBs in the soil at this site. Such exposures would include occupational exposures to the populations working at or visiting the site (such as individuals making deliveries or pickups to the facilities at the site or maintenance personnel). In addition, persons, including children from the nearest residential developments, could trespass on the site during days or hours when the facilities are not in operation and be exposed to contaminants in the surface soil.

A principal means of exposure would be from the incidental ingestion of contaminated soil. The highest PCB concentration detected in the soils was 1,450 ppm. However, some exposures might also occur from dermal contact with the contaminated soil, from the inhalation of wind-blown contamination dust, and from the ingestion or dermal contact with contaminated surface water runoff.

Another principal means of exposure would be from dermal contact with contaminated building surfaces. The highest PCB concentration detected in the building was 1,790 ppm. However, some exposures might also occur from inhalation of contaminated dust within the building.

2. High levels of hazardous substances, pollutants, or contaminants in soils largely at or near the surface that may migrate

Soil which is to be addressed by this removal action contains concentrations of PCBs up to 500 ppm, which is well above concentrations that EPA finds acceptable in its TSCA Spill Policy, even for sites in industrial/nonresidential settings (25 ppm).

3. Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released

The Ewing Street facility is located in the Kansas River flood plain. Flooding and the rapid flow of water across a site can either pick up and deposit contaminated soil or can deposit sediment on top of the site. Fortunately, no flood-related migration of PCB contamination has been detected. However, future high-water events might act differently and carry contaminated soil onto adjacent properties.

4. The availability of other appropriate federal or state response mechanisms to respond to the release

Neither EPA nor KDHE have identified authorities other than the EPA Superfund removal program which could be used in an efficient manner to address the PCB contamination.

B. Endangerment Determination

In summary, as indicated in the discussion of several of the above criteria, the actual or threatened releases of hazardous substances from the Ewing Street facility, including but not limited to PCBs, if not addressed by the implementation of the response action selected in this Action Memorandum, present an imminent and substantial endangerment to public health, welfare, or the environment.

V. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

The EE/CA for the site was approved by EPA during June 2000. This document evaluated different means of addressing the PCB contamination found at the site. (A copy of the EE/CA can be found in the Administrative Record for the site at the Kansas City, Kansas, Main Public Library, 625 Minnesota Avenue, Kansas City, Kansas.)

Two categories of action, no-action and solvent washing, were determined to be ineffective to reduce contamination concentrations to values which would be protective of human health or the environment. Actual use of these technologies at other sites with PCB contamination has not been effective.

Controlled demolition of the building and excavation of the contaminated soils have been selected as the preferred response. PCB-contaminated debris and/or soils are to be disposed in a licensed landfill. It is estimated that 13,500 tons of building debris will be generated. Demolition of the building is to be performed from the roof down. The building will be dismantled in a "surgical" manner to better control fugitive dust emissions. Concrete debris from the building will be segregated, based on contamination concentrations, and shipped to an appropriate licensed landfill for disposal. Some portions of the building may require off-site incineration as a result of the PCB concentrations within the concrete. PCB contamination of the soils surrounding the building is not thought to be more than 12 inches in depth. Approximately 650 tons of soil are estimated to be contaminated at concentrations above the action level at the site. Soils will be composited for shipment to the licensed disposal facility. Excavated portions of the site will be backfilled to surround grade.

The detailed work plan for building demolition will contain information regarding the methods to be used to minimize dust emissions and water runoff. Dust control may include misting, some form of partial enclosure, etc. The successful demolition contractor will be responsible for compliance with applicable regulations including, but not limited to, EPA Air Regulations.

This structure is currently not occupied. Cargill and Morton-Meyers occupy the structures immediately to the northwest and southeast of the 45 Ewing facility. A portion of the removal action will be to assist these businesses with temporary relocation costs.

The following federal regulations were considered as applicable or relevant and appropriate requirements (ARARs) for this removal action.

- National Pollutant Discharge Elimination System (NPDES) Requirements (CWA 40 CFR 122)
- General Pretreatment Regulations for Existing and new Sources of Pollution for Publicly Owned Treatment Works (POTW) (WPCA 40 CFR 401 and 403)
- DOT Rules for Transportation of Hazardous Materials (DOT 49 CFR 107)
- Standards for Identification and Listing of Hazardous Waste (RCRA 40 CFR 261)

- Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
(RCRA 40 CFR 264, 265)
- RCRA Land Disposal Restrictions
(RCRA 40 CFR 266)
- PCB Manufacturing, Processing, Distribution in Commerce and Prohibitions
(TSCA 40 CFR 761)
- Mega Rule (63 FR 35384-35474)

The state of Kansas provided a listing of state regulations which may be ARARs. The state of Kansas was timely in identifying ARARs.

- Kansas Water Plan
(28 CSR 15)
- Kansas Water Pollution Control Standards
(28 CSR 16)
- Ambient Air Quality Standards and Air Pollution Control
(28 CSR 19)
- Kansas Solid Waste Management Rules
(28 CSR 29)
- Kansas Hazardous Waste Management Standards and Regulations
(28 CSR 31)
- Kansas Standards for PCB Facilities
(28 CSR 55-5)
- Kansas Wastewater Discharge Control Law
(KSA 65.161-171w)

B. Estimated Costs

This action is anticipated to be taken by the PRPs. No Removal Advice of Allowance monies are anticipated to be necessary.

PRP Removal Costs

Building Demolition	\$12,753,000
Building Debris Transportation & Disposal	2,516,000
Soil Excavation, Transportation & Disposal	596,000
Temporary relocation of adjacent businesses	500,000
Contingency (15%)	<u>2,454,750</u>
Total estimated PRP costs	\$18,819,750

EPA Intramural Costs

Intramural Direct Costs	\$ 137,000
Intramural Indirect Costs	<u>284,000</u>
Total Intramural Costs	\$ 421,000
Total, Removal Project Ceiling	\$19,240,750

VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

Contamination could continue to migrate resulting in increased levels of exposure to the building tenants, neighbors, and others coming into contact with site contaminants.

The site is located within a redevelopment area of Kansas City, Kansas. Use of the area may increase due to redevelopment which could increase the number of individuals potentially exposed to site contaminants.

VII. OUTSTANDING POLICY ISSUES

This is a removal action. No additional response effort is anticipated. Current long-term tenants of the adjacent structures will be provided moving assistance as an "other action" that may be necessary to provide protection of human health, welfare, and the environment. Staff at EPA Headquarters have been informed of and concur with Region VII's interpretation.

VIII. ENFORCEMENT

PRPs for this site have been identified. The EPA has worked with a Steering Committee representing many of the PRPs and will seek to successfully negotiate an agreement with them to perform the removal action.


IX. RECOMMENDATION

This decision document represents the selected removal action for part of the PCB Treatment, Inc., site located at 45 Ewing Street, Kansas City, Kansas, developed in accordance with CERCLA, as amended, and not inconsistent with the NCP. This decision is based on the Administrative Record for the site.

Conditions at the site meet the NCP section 300.415(b)(4) criteria for a non-time-critical removal, and I recommend your approval of the proposed removal action. The total project ceiling is \$19,240,750. Of this estimated cost, \$18,819,750 is expected to be financed by the PRPs.

☒ Agree

☐ Disagree



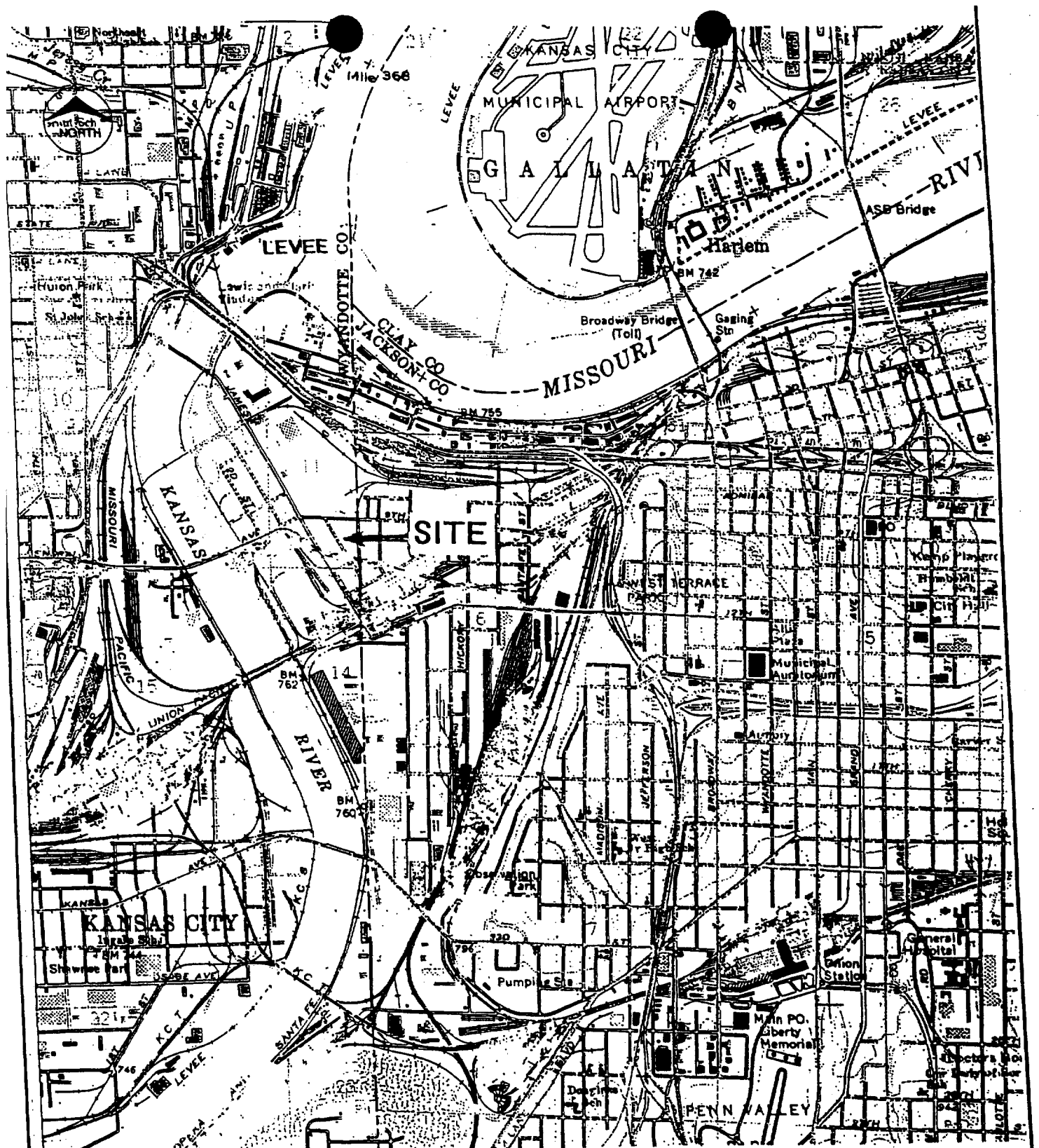
Michael J. Sanderson, Director
Superfund Division

8-3-00

Date



PCB Treatment, Inc. Site
45 Ewing Street, Kansas City, Kansas
Figure 1



LEGEND

A---A' LINE OF GEOLOGIC CROSS SECTION

2000 0 2000 4000

SCALE IN FEET

KANSAS CITY QUADRANGLE MAP 1975

**SITE LOCATION MAP
PCB TREATMENT, INC.
45 EWING STREET
KANSAS CITY, KANSAS**

Figure 2



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

ENFORCEMENT ACTION MEMORANDUM

SUBJECT: Request for a Removal Action at PCB Treatment, Inc., Site
2100 Wyandotte Street, Kansas City, Jackson County, Missouri

FROM: Pauletta R. France-Isetts, RPM *Pauletta R. France-Isetts*
Missouri/Kansas Remedial Branch

THRU: Steve Kovac, Chief *Steve Kovac*
Missouri/Kansas Remedial Branch

TO: Michael J. Sanderson, Director
Superfund Division

Site ID#: RK

CERCLIS ID: MOD063670350

I. PURPOSE

The purpose of this Enforcement Action Memorandum is to request and document approval for a non-time-critical removal action at part of the PCB Treatment, Inc., site located at 2100 Wyandotte Street, Kansas City, Jackson County, Missouri. Potentially responsible parties (PRPs) may perform this removal action. Therefore, no funding for an Environmental Protection Agency (EPA) implementation of this removal action is requested at this time. In the event that PRPs do not perform this removal action pursuant to an Administrative Order on Consent, EPA Region VII plans to issue a Unilateral Administrative Order to compel the PRPs to implement the removal action. No nationally significant issues exist at this site.

II. SITE CONDITIONS AND BACKGROUND

A. Site Description

A Removal Site Evaluation (RSE) study was conducted in accordance with the terms of an Administrative Order on Consent between a group of former PCB Treatment, Inc., customers and the EPA. The RSE included sample collection and analysis for areas in and around the structure located at 2100 Wyandotte Street. Samples of the following media were collected and analyzed during the RSE: soils (surface and subsurface), groundwater, concrete dust, air, concrete cores, wipe, and sludge.

Analytical data for the samples collected indicated polychlorinated biphenyl (PCB) contamination at concentrations which represent a threat to human health and the environment. Action levels established after evaluation of risks to human health and the environment were exceeded in both interior and exterior samples. Interior samples indicated that both the walls and the floors are contaminated with PCBs. PCB contamination of the concrete floors, occupied by PCB Treatment, Inc. (PCB, Inc.), was present through the entire concrete thickness. Soil samples, collected exterior to the structure, indicated PCB concentrations greater than the action levels. No groundwater contamination was detected.

The part of the site addressed by this Action Memorandum consists of a seven-story concrete frame building and surrounding soils, see Figure 1. It is located at 2100 Wyandotte Street, Kansas City, Missouri, see Figure 2. This property is bordered by sidewalks on the north and east sides, a parking lot on the south side, and an alley on the west side. Historical uses of the property were generally for storage and light industry. Information from the 1990 U.S. Census indicates a population of about 6,500 within a one-mile radius of the site. The 1990 Census indicates that the population residing in the vicinity of the site are of Caucasian, African-American, and Hispanic origins.

There are eight schools and day care centers, six hospitals, five parks and three food manufacturing facilities within a one-mile radius of the site. One hundred sixteen restaurants, bars, catering facilities, and soup kitchens are also present within this area.

This part of the site is located on a developed piece of property. The tract of land is flat-lying and underlain by alluvial deposits associated with the Kansas River. The Wyandotte Street property is located in the Freighthouse District, an area that is being actively re-developed. Land use surrounding the Wyandotte Street property is currently commercial and light-industrial. Union Station and Science City are located in close proximity. Lofts, art museums, restaurants, offices, and parking are expected to be constructed in the immediate area around the Wyandotte Street property.

Releases of materials contaminated with PCBs occurred during operations at the site. These releases were likely the result of spilled, splashed, leaked, or poured PCB-contaminated oil which came to be located in and on the floor, walls, and soils surrounding the building. Information gathered during the RSE indicates that portions of all floors, even those not used by PCB, Inc., are contaminated with PCBs above health-based levels.

PCB, Inc., was authorized by the EPA pursuant to the Toxic Substances Control Act (TSCA) to treat and dispose materials containing PCBs. Historically, PCBs were commonly used as coolants and lubricants in transformers, capacitors, and other electrical equipment. The manufacture of PCBs stopped in the United States in 1977 due to evidence that they accumulate in the environment and cause harmful effects.

PCB, Inc., began operations at 2100 Wyandotte Street in Kansas City, Missouri, during 1982. Operations at the facility included: capacitor decommissioning, de-chlorination of PCB-contaminated oils, and temporary storage of PCB-items. In 1983, EPA granted PCB, Inc., a three-year permit to decommission capacitors pursuant to the TSCA regulations. The capacitor decommissioning activities involved chopping open the capacitor, removing the fluid and internal parts, flushing the container and shipping the oil and internal parts to the SCA incinerator located near Chicago, Illinois. The capacitor decommissioning activities were conducted on the third floor.

PCB, Inc., also applied for and received a permit from EPA that approved an alternate method of de-chlorinating oils contaminated with PCBs. This process was conducted at the Wyandotte facility for only a short period of time. During September 1984, PCB, Inc., requested that the permit be transferred to its wholly owned subsidiary, Environmental Resource Management, Inc. (ERMI), which would operate at 45 Ewing Street, Kansas City, Kansas. This request was approved. PCB, Inc., operated at both locations through 1986. During this time period, PCB, Inc., operated under other names which included: PCB, Inc., of Missouri; PCB, Inc., of Kansas; Environmental Resource Management, Inc.; PCB, Inc.; and Envirosure (which acted as a marketing arm for the company).

Customers of PCB, Inc., included the federal government, rural electric cooperatives, utility companies, cities, states, and large and small businesses. During its period of operation, approximately 1,500 parties shipped materials contaminated with PCBs to the site, including transformers and capacitors. These items contained PCB concentrations ranging from about 50 parts per million (ppm) to nearly 100 percent PCBs. The total gross weight of materials sent to the site for treatment and disposal was in excess of 25 million pounds.

PCB, Inc., operated on the first, third, sixth, and seventh floors of the structure located at 2100 Wyandotte. Shipments of PCB items from customers were received on the first floor. Capacitors were decommissioned in a room along the north wall of the third floor; the remainder of the third floor was used for storage of PCB items. The sixth and seventh floors were also used for PCB-item storage.

Annual TSCA inspections were made at the facility. Significant violations were observed during the 1985 TSCA inspection; a Notice of Violation was issued to PCB, Inc. PCB, Inc., was assessed a fine and required to "clean" close the facility when it ceased business operations. Inspections were much more frequent after 1985. Near the end of operations, inspections were occurring on a weekly basis. PCB, Inc., requested that its permits be renewed at the end of the three-year period. The EPA refused to renew the permits and PCB, Inc., ceased processing capacitors during late 1986 and ceased de-chlorinating oil during early 1987.

This site is not on nor has it been proposed for inclusion on the National Priorities List of sites.

B. Other Actions to Date

PCB Treatment, Inc., was inspected several times by EPA during its period of operation. These inspections identified permit violations and releases of PCB-contaminated oil. An oil spill from a tanker was reported during 1983. The EPA emergency response personnel responded to and cleaned up the spill.

The owners took various steps to attempt site clean up after PCB Treatment, Inc., ceased operations. These clean-up attempts were made between 1987 and 1991.

Site investigations, as a part of the EPA TSCA efforts, were initiated during 1989 and continued until 1992. The purpose of these investigations was to follow the progress of and evaluate the success of the various clean-up technologies. Analytical data generated as a result of EPA's investigations indicated that the clean-up technologies used were not effective in removing PCB contamination and may have resulted in PCBs migrating into the concrete matrix.

A group of former customers prepared an Engineering Evaluation/Cost Analysis (EE/CA) study for the site. This document was submitted to EPA, pursuant to an Administrative Order on Consent during June 2000. Response technologies to address the PCB-contamination at the site were discussed and evaluated.

The EPA prepared an Executive Summary during June 2000, based on the information contained in the RSE and EE/CA. The Executive Summary identified the preferred removal action to include demolition of the structure and excavation of the PCB-contaminated soils. The materials generated by these activities are to be disposed at landfills licensed and authorized to accept the materials or sent to an off-site incinerator if the PCB concentrations require destruction. Previous clean-up attempts at the site, using washing, solvent rinsing, shot-blasting, scouring, etc., have not been successful and may have exacerbated the problems. Therefore, EPA has determined that the most effective way to remove the contamination and the resultant threat is to demolish the building and excavate the contaminated soils.

C. State and Local Authority Roles

The Missouri Department of Natural Resources (MDNR) has been an active participant during the site evaluation process. MDNR staff have been kept informed of all site-related activities. The city of Kansas City, Missouri, has communicated its concern that the site be cleaned up so that planned re-development of the area not be delayed.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT

PCBs do not burn easily and are, therefore, good insulating material. They were used as coolants and lubricants in transformers, capacitors, and other electrical equipment. The manufacture of PCBs stopped in the United States in 1977 because of evidence that they build up in the environment and cause harmful effects to human health. PCBs have been designated hazardous substances pursuant to Section 310(b)(2)(A) of the Federal Water Pollution Control Act, 33 U.S.C. §1321(b)(2)(A), and have been listed as toxic pollutants pursuant to Section 307(a) of the Federal Water Pollution Control Act, 33 U.S.C. §1317(a). Products containing PCBs include: capacitors, transformers, regulators, old fluorescent lighting fixtures, electrical appliances containing PCB capacitors, old microscope oil, and hydraulic fluids.

People exposed to PCBs in the air for a long time have experienced irritation of the nose and lungs and skin irritations, such as acne and rashes. PCBs have been found to cause cancer of the liver in rats. The U.S. Department of Health and Human Services, Public Health Service, Agency for Toxic Substances and Disease Registry (ATSDR) has determined that PCBs may reasonably be anticipated to be carcinogens. The EPA has determined that PCBs are a possible human carcinogen.

As part of the RSE, a table was developed which identified the PCB concentrations which correlate with an unacceptable risk to human health. The table below presents the PCB clean-up levels that are risk based and specific to this site. These clean-up levels are based on a residential/commercial use of the site (based on projected land use in the area).

Sample Type	Clean Up Level	Source
Wipe (surface concentration)	1 microgram per hundred square centimeter s(ug/100 cm ²)	Minimum Detection Limit (MDL)
Air (air concentrations)	0.5 ug/cubic meter (m ³)	MDL
Bulk Concrete (concentrations within concrete)	1 milligram/kilogram (mg/kg) or ppm	Toxic Substance Control Act 40 CFR Part 761.125
Segregation and disposal Value for Bulk Concrete (top one inch)	50 mg/kg	Toxic Substance Control Act 40 CFR Part 761.125
Soil (top 10 inches)	1 mg/kg or ppm	Toxic Substance Control Act 40 CFR Part 761.125 (c)(4)(v)
Soil (depths greater than 10 inches)	10 mg/kg or ppm	Toxic Substance Control Act 40 CFR Part 761.125(c)(4)(v)

The Site Characterization Report was completed during August 1999. This report concluded that all floors of the former PCB, Inc., facility located at 2100 Wyandotte Street are contaminated with PCBs at concentrations above health-based levels. The contamination extends to stairwells, basement, and exterior areas, including soils. PCB concentrations in the building of up to 23,800 ppm have been detected at the site. PCB concentrations of 500 ppm have been detected in the soils. Health-based concentrations were exceeded on portions of all floors, with the third floor being the most heavily contaminated. No PCBs were detected in groundwater. The action level for PCBs (the point at which EPA requires a response action to protect human health and the environment) at the site is one ppm. A response action is clearly necessary to provide protection of human health and the environment.

IV. STATUTORY AND REGULATORY AUTHORITIES

Section 104 of the Comprehensive Environmental Response, Liability and Compensation Act, as amended, (CERCLA) and the regulations promulgated thereunder in the National Contingency Plan (NCP), 40 C.F.R. §300.415(b) provide that EPA may conduct a removal action when it determines that a release or threat of release of hazardous substances poses a substantial threat to human health or the environment. Under Section 106 of CERCLA, EPA can order a PRP to perform a removal action when EPA determines that there may be an imminent and substantial endangerment to public health, welfare, or the environment from the release of hazardous substances at a site. PCBs are hazardous substances as defined by CERCLA § 101(14).

The NCP at §300.415(b)(2) contains eight criteria or factors to be assessed when considering the need for a removal action. Several of these criteria apply to this removal action and are as follows.

A. Specific Criteria Applicable to this Removal Action

1. Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants or contaminants

Humans could be exposed to the PCBs in the soil at this site. Such exposures would include occupational exposures to the populations working at or visiting the site (such as individuals making deliveries or pickups to the facilities, or maintenance personnel). In addition, persons, including children from the nearest residential developments, could trespass on the site during days or hours when the facilities are not in operation and be exposed to contaminants in the surface soil.

A principal means of exposure would be from the incidental ingestion of contaminated soil. The highest PCB concentration detected in the soils was 500 ppm. However, some exposures might also occur from dermal contact with the contaminated soil, from the inhalation of wind-blown contamination dust, and from the ingestion or dermal contact with contaminated surface water runoff.

Another principal means of exposure would be from dermal contact with contaminated building surfaces. The highest PCB concentration detected in the building was 23,800 ppm. However, some exposures might also occur from inhalation of contaminated dust within the building.

2. High levels of hazardous substances, pollutants, or contaminants in soils largely at or near the surface that may migrate

Soil which is to be addressed by this removal action contains concentrations of PCBs up to 500 ppm, which is well above concentrations that EPA finds acceptable in its TSCA Spill Policy, even for sites in industrial/nonresidential settings (25 ppm).

3. Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released

The Wyandotte facility is located in the abandoned lower Turkey Creek Valley, an abandoned Pleistocene ice margin diversion channel. Flooding and the rapid flow of water across a site can either pick up and deposit contaminated soil or can deposit sediment on top of the site. Fortunately, no flood-related migration of PCB contamination has been detected. However, future high-water events might act differently and carry contaminated soil onto adjacent properties.

4. The availability of other appropriate federal or state response mechanisms to respond to the release

Neither EPA nor MDNR have identified authorities other than the EPA Superfund removal program which could be used in an efficient manner to address the PCB contamination.

B. Endangerment Determination

In summary, as indicated in the discussion of several of the above criteria, the actual or threatened releases of hazardous substances from the Wyandotte facility, including but not limited to PCBs, if not addressed by the implementation of the response action selected in this Action Memorandum, present an imminent and substantial endangerment to public health, welfare, or the environment.

V. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

The EE/CA for the site was approved by EPA during June 2000. This document evaluated different means of addressing the PCB contamination found at the site. (A copy of the EE/CA can be found in the Administrative Record for the site at the Kansas City, Missouri, Main Public Library - Government Documents, 311 E. 12th Street, Kansas City, Missouri.) Two categories of action, no action and solvent washing, were determined to be ineffective to reduce contamination concentrations to values which would be protective of human health or the environment. Actual use of these technologies at other sites with PCB contamination has not been effective.

Controlled demolition of the building and excavation of the contaminated soils have been selected as the preferred response. PCB-contaminated debris and/or soils are to be disposed in a licensed landfill. It is estimated that 17,900 tons of building debris will be generated. Demolition of the building is to be performed from the roof down. The building will be dismantled in a "surgical" manner to better control fugitive dust emissions. Concrete debris from the building will be segregated, based on contamination concentrations; and shipped to an appropriate licensed landfill for disposal. Some portions of the building may require off-site incineration as a result of the PCB concentrations within the concrete. PCB contamination of the soils surrounding the building is not thought to be more than 12 inches in depth. Approximately 150 tons of soil are estimated to be contaminated at concentrations above the action level at the site. Soils will be composited for shipment to the licensed disposal facility. Excavated portions of the site will be backfilled to surround grade.

The detailed work plan for building demolition will contain information regarding the methods to be used to minimize dust emissions and water runoff. Dust control may include misting, some form of partial enclosure, etc. The successful demolition contractor will be responsible for compliance with applicable regulations including, but not limited to, EPA Air Regulations.

This structure is currently occupied by two tenants: Rosse Lithographing and Swift Chemical. Rosse Lithographing has occupied a portion the building since the mid-1970s. Swift Chemical has occupied space at the building since March 1982. A portion of the space occupied by Swift Chemical is currently sub-leased to Midwest Data Accessories. Assisting these tenants with moving costs will be part of the removal action.

The following federal regulations were considered as applicable or relevant and appropriate requirements (ARARs) for this removal action.

- National Pollutant Discharge Elimination System (NPDES) Requirements (CWA 40 CFR 122)
- General Pretreatment Regulations for Existing and new Sources of Pollution for Publicly Owned Treatment Works (POTW) (WPCA 40 CFR 401 and 403)
- DOT Rules for Transportation of Hazardous Materials (DOT 49 CFR 107)
- Standards for Identification and Listing of Hazardous Waste (RCRA 40 CFR 261)
- Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities (RCRA 40 CFR 264, 265)
- RCRA Land Disposal Restrictions (RCRA 40 CFR 266)
- PCB Manufacturing, Processing, Distribution in Commerce and Prohibitions (TSCA 40 CFR 761)
- Mega Rule (63 FR 35384-35474)

The state of Missouri provided a listing of state regulations which may be ARARs. The state of Missouri was timely in identifying ARARs.

- Missouri Water Quality Standards (10 CSR 20)
- Air Quality Standards, Definitions, Sampling, and Reference Methods and Air Pollution Regulations for the Entire State of Missouri (10 CSR 10)
- Missouri Solid Waste Rules (10 CSR 80)
- Missouri Hazardous Waste Management Law (MoHWML) Sect. 260.380 RSMO)
- Missouri Hazardous Waste Rules (MoHWR) (10 CSR 25)

B. Estimated Costs

This action is anticipated to be taken by the PRPs. No Removal Advice of Allowance monies are anticipated to be necessary.

PRP Removal Costs

Building Demolition	\$ 6,559,750
Building Debris Transportation & Disposal	5,487,000
Soil Excavation, Transportation & Disposal	307,375
Moving Expenses for Tenants	1,500,000
Contingency (15%)	<u>2,078,125</u>
Total estimated PRP Costs	\$15,932,250

EPA Intramural Costs

Intramural Direct Costs	\$ 137,000
Intramural Indirect Costs	<u>284,000</u>
Total Intramural Costs	\$ 421,000

Total Removal Project Ceiling \$16,353,250

VI. **EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN**

Contamination could continue to migrated resulting in increased levels of exposure to the building tenants, neighbors, and others coming into contact with site contaminants.

The site is located within a redevelopment area of Kansas City, Missouri. The EPA has received correspondence from the Office of the Mayor of Kansas City, Missouri, stating that response to the contamination at the site is extremely important to the city's revitalization effort and delays would be detrimental to the redevelopment efforts. Use of the area may increase due to redevelopment and as a result, could increase the number of individuals potentially exposed to site contaminants.

VII. **OUTSTANDING POLICY ISSUES**

This is a removal action. No additional response effort is anticipated. Long-term current tenants of the structure will be provided moving assistance as an "other action" that is necessary to provide protection of human health, welfare, and the environment. Staff at EPA Headquarters have been informed of and concur with Region VII's interpretation.

VIII. ENFORCEMENT

PRPs for this site have been identified. The EPA has worked with a Steering Committee representing many of the PRPs and will seek to successfully negotiate an agreement with them to perform the removal action.


IX. RECOMMENDATION

This decision document represents the selected removal action for part of the PCB Treatment, Inc., site located at 2100 Wyandotte Street, Kansas City, Missouri, developed in accordance with CERCLA, as amended, and not inconsistent with the NCP. This decision is based on the Administrative Record for the site.

Conditions at the site meet the NCP section 300.415(b)(4) criteria for a non-time-critical removal, and I recommend your approval of the proposed removal action. The total project ceiling is \$16,353,250. Of this estimated cost, \$15,932,250 is expected to be financed by the PRPs.

☒ Agree

☐ Disagree



Michael J. Sanderson, Director
Superfund Division

8-3-00

Date



PCB Treatment, Inc. Site
2100 Wyandotte Street – Kansas City, Missouri
Figure 1

APPENDIX 4

Legal Description of the Real Property Comprising PCB Treatment, Inc. Superfund Site

45 Ewing Street: Lots 40, 42, 44, 46, 48, and 50 on Ewing Street in Kansas City, Kansas, an addition in Kansas City, Wyandotte County Kansas.

2100 Wyandotte Street: Lots 1, 2, 3, 4, 5 and 6, Block 21, Goodrich Addition, in Kansas City, Jackson County, Missouri

APPENDIX 5

STATEMENT OF WORK FOR
THE REMOVAL WORK PLAN AND REMOVAL ACTIONS
AT THE
PCB, TREATMENT INC. SUPERFUND SITE
KANSAS CITY, MISSOURI AND KANSAS CITY, KANSAS

I. PURPOSE

The purpose of this Statement of Work (SOW) is to describe the implementation of the Removal Actions authorized in the Action Memoranda, which were signed by the Environmental Protection Agency (EPA) Superfund Division Director on August 3, 2000 for the PCB, Treatment Inc. Superfund Site (Site). This SOW is attached to and incorporated into the Administrative Order on Consent (Consent Order), EPA CERCLA Docket No.----- Respondents shall implement the Removal Actions described in the Action Memoranda, Consent Order and the approved Removal Work Plan, and submit the deliverables required by the Consent Order and this SOW consistent with EPA Superfund Remedial Design and Remedial Action Guidance, and the attached index of reference documents.

II. Definitions

A. ARARs: The applicable or relevant and appropriate requirements of environmental laws other than CERCLA, as defined more fully in Section 121(d) of CERCLA, 42 U.S.C. § 9621(d), and Section 300.400(g) of the NCP and identified in the Action Memos.

B. Cleanup Standards: Contaminant concentrations specified in the Engineering Evaluation/Cost Analysis, the Executive Summaries, and the Action Memos, which constitute specific response/removal requirements for building(s) and soils.

C. Project Coordinator: The parties assigned by the Respondents and EPA in Section VI of the Consent Order to manage the Removal Actions and to be the primary person responsible for communications between the parties.

D. Removal Designer: The consultant hired by the Respondents to design the Removal Actions.

E. Removal Action Constructor: The party hired by the Respondents to conduct the Removal Action. This may be a general contractor, the Removal Designer or the Respondents, if they act as their own general contractor.

F. Quality Assurance Officer: That official appointed by the Respondents to provide confirmation/assurance to the Respondents and EPA that the selected response actions are constructed to meet project requirements.

III. DESCRIPTION OF THE REMOVAL ACTIONS/PERFORMANCE STANDARDS

Respondents shall design and implement the Removal Actions to meet the performance standards and specifications set forth in the Action Memos and this SOW. Performance standards shall include cleanup standards, standards of control, quality criteria and other substantive requirements, criteria or limitations set forth in the Action Memoranda and all chemical-specific and action-specific ARARs for this Site.

ARARs for this site include the Clean Air Act, Kansas Action Levels (KALs)¹, and soil cleanup levels set under the Risk Assessment Guidance for Superfund: Volume I - Human Health Evaluation Manual (Part B, Development of Risked-Based Preliminary Remediation Goals).

The Removal Actions consist of the demolition of the PCB, Treatment, Inc. buildings located at 2100 Wyandotte Street, Kansas City, Missouri and 45 South Ewing Street, Kansas City, Kansas, piece-by-piece from the top down, the excavation of contaminated soils at these locations, as well as the offsite disposal of the debris and contaminated soils from these locations. Respondents shall dispose of soils with PCBs above 50 parts per million (ppm) in a permanent TSCA landfill. Respondents may dispose of soils with less than 50 ppm PCBs at a sanitary landfill. As part of these actions, certain collateral activities will be conducted to minimize the impact of these actions on surrounding businesses.

As the design progresses, other ARARs may be identified.

¹ KALS were replaced in March 1999 by the Risk-based Standards for Kansas (RSKs).

Respondents shall send Waste Materials only to a facility in compliance with the CERCLA Off-Site Policy which has been codified at 40 CFR § 300.440.

IV. ROLE OF EPA

EPA APPROVAL

Approval of submittals to EPA is administrative in nature to allow the Respondents to proceed to the next step in implementing the removal actions. It does not imply any warranty of performance or that the removal, when completed, will meet Performance Standards or be accepted. As described more fully in Section VIII of the Consent Order, EPA retains the right to approve in part, approve upon specified conditions, modify, or disapprove submittals.

The EPA shall have the above approval authority for contractors, plans and specification(s), processes, and other submittals within the context of the Consent Order.

V. Respondents' KEY PERSONNEL

A. DESIGNATION OF PROJECT COORDINATOR

Pursuant to Section VI of the Consent Order, the Respondents shall, within five (5) days of the effective date of the Consent Order, submit in writing to EPA the name, title, and qualifications of their proposed Project Coordinator. Pursuant to Section VI of the Consent Order and this Section of the SOW, the Project Coordinator shall be subject to approval/disapproval by EPA. The Project Coordinator will be responsible for carrying out the overall coordination and management of all activities required under the Consent Order for the Site as stated in Section III. Respondents also shall submit a list of all other acceptable candidates considered during the Project Coordinator selection. The Project Coordinator may be a member of the Respondents' staffs, an independent contractor, or a member of the Supervising Contractor's staff. The Project Coordinator shall not be an attorney for any of the Respondents in this matter.

B. REVIEW AND APPROVAL OF SUPERVISING CONTRACTOR

Respondents shall submit to EPA the name, title, and qualifications of their proposed Supervising Contractor within 20 days of the effective date of the Consent Order. Pursuant Section IV of this SOW, the Supervising Contractor shall be subject to disapproval by EPA.

The Supervising Contractor may come from within the ranks of the Respondents' own staffs or through a contractual relationship with a private consulting entity. The Supervising Contractor shall be a Design Professional with experience in the response technologies selected for these specific sites. The Supervising Contractor may assume the role(s) of Project Coordinator, Removal Designer, Removal Action Constructor, and Quality Assurance Official (QAO) with the following exception. The Supervising Contractor shall not assume both the role of Removal Action Constructor and Quality Assurance Official. The Respondents shall demonstrate to EPA the proposed Supervising Contractor's professional reputation; professional registration; design experience and qualifications specifically required for the project; sufficient capacity in professional, technical, and support staff to accomplish the project within the required schedule; and sufficient business background and financial resources to provide uninterrupted services throughout the life of the project.

The information submitted concerning the Supervising contractor will include a written statement of qualification in sufficient detail to allow EPA and the states of Missouri and Kansas to make a full and timely evaluation.

C. THE REMOVAL ACTION QUALITY ASSURANCE OFFICIAL

Oversight of the Removal Action by the Quality Assurance Official (QAO) is used to provide confirmation/assurance to the Respondents and EPA that the selected response actions are constructed to meet project requirements. The QAO implements the Construction Quality Assurance Plan (CQAP) and the Quality Assurance Project Plan (QAPP) by selectively testing and inspecting the work of the

Removal Action constructor. The QAO is required to be "independent" and autonomous from the Removal Action Constructor. The QAO may come from within the ranks of the Respondents' own staffs, the Removal Supervising Contractor organization, or through a separate contractual relationship with a private consulting entity.

VI. SCOPE OF REMOVAL ACTIONS

The Removal Actions shall include the tasks outlined below:

Task 1: Removal Work Plan

Task 2: Removal Design

Task 3: Removal Actions

- A. Preconstruction Meeting
- B. Prefinal Inspection
- C. Final Inspection
- D. Reports

- 1. Completion of Removal Action Report
- 2. Monthly Progress Reports
- 3. Daily Reports

These tasks are further defined as follows:

Task 1: Removal Work Plan

The Respondents shall submit a Removal Work Plan which shall document the overall management strategy for performing the design, construction, and reporting of Removal Actions for EPA review and approval. The plan shall document the responsibility and authority of all organizations and key personnel involved with the implementation and shall include a description of qualifications of key personnel directing the Removal Actions during both the design and implementation, including contractor personnel. The Work Plan shall also contain a schedule of Removal activities and shall define the Removal objectives and approaches, the basis of the design and any

assumptions and limitations. The Work Plan shall identify all standards and regulations that are applicable or relevant and appropriate to the design. The Respondents shall submit a draft Removal Work Plan according to the schedule identified in the Submission Summary in Section VII of this SOW. Document review shall be in accordance with Section VIII of the Consent Order. The Respondents shall submit a final Removal Work Plan addressing EPA's comments on the Draft Work Plan according to the schedule identified in the Submission Summary of this SOW.

The Work Plan shall contain at a minimum the following elements:

1. Proposed composition of the design team, including the initial assignment of responsibility and authority of all organizations and key personnel involved in the implementation of the Consent Order. EPA shall be notified in writing, within 48 hours, of any changes of assignments for key personnel.
2. A Health and Safety Plan (HSP) for design and removal activities.
3. A Quality Assurance Plan for field data collection and for analysis of all samples of any matrix type to support remedial action objectives.
4. A proposed Removal Design schedule for completion of the design with dates for intermediate deliverables.
5. A Permitting Requirements Plan. The Respondents must meet the substantive requirements of all ARARs pertaining to permits for onsite activities, as well as obtaining all required permits for offsite activities. The states may have permitting requirements for these response actions.
6. Field Sampling Plan (FSP) including requirements for additional field data collection to refine estimates of lateral and vertical extent of the contamination and other data necessary for design

purposes as well as any other sampling necessary to complete the design.

The above submittals shall be submitted to and reviewed by EPA and the states in accordance with Section VII of this SOW, Summary of Major Deliverables/Schedule.

Task 2: Removal Design Phases

Respondents shall prepare design analysis reports, construction plans, specifications and other reports to implement the Removal Actions at the Site as described in the Action Memos and this SOW. Plans and specifications shall be submitted in accordance with the schedule set forth in Section VII below. All plans and specifications shall be developed in accordance with EPA's Superfund Remedial Design and Remedial Action Guidance (OSWER Directive No. 9355.0-4A) and shall demonstrate that the Removal Actions shall meet all objectives of the Action Memos, the Consent Order and this SOW, including all Cleanup and Performance Standards.

A. Preliminary Design

Respondents shall submit the Preliminary Design when the design effort is approximately 30% complete. The Preliminary Design submittal shall include or discuss, at a minimum, the following:

- Preliminary plans, drawings, and sketches, including design calculations;
- Results of any field sampling;
- Design assumptions and parameters, including design restrictions, process performance criteria,
- Proposed cleanup verification methods, including compliance with ARARs;
- Proposed siting/locations of processes/construction activity;

- Real estate, easement, and permit requirements;
- Preliminary construction schedule, including contracting strategy.

B. Prefinal and Final Designs

Respondents shall submit the Prefinal Design when the design effort is 95% complete and shall submit the Final Design when the design effort is 100% complete. The Prefinal Design shall fully address all comments made to the preceding design submittal. The Final Design shall fully address all comments made to the Prefinal Design and shall include reproducible drawings and specifications suitable for bid advertisement. The Prefinal Design shall serve as the Final Design if EPA has no further comments and issues the notice to proceed.

The Prefinal and Final Design submittals shall include those elements listed for the Preliminary Design, as well as the following:

- Final Cleanup and Performance Standards Verification Plan;
- Final Construction Quality Assurance Plan;
- Final QAPP/Final H & S Plan/Final FSP/Final Contingency Plan;
- Dust Control Plan , including methods and measures for effectiveness
- Final Project Schedule for the construction and implementation of the Removal Action which identifies timing for initiation and completion of all critical path tasks. The final project schedule submitted as part of the Final Design shall include specific dates for completion of the project and major milestones.
- Final Logistics Plan
- Air Sampling and monitoring for dust or contaminant

releases during the demolition both near the building and in surrounding areas.

Task 3: Removal Actions

The Respondents shall implement the Removal Actions as detailed in the Final Design. The following activities shall be completed in performing the Removal Actions.

A. Preconstruction inspection and meeting:

Respondents shall participate with the EPA and the states of Missouri and Kansas in a preconstruction inspection and meeting to:

- a. Review methods for documenting and reporting inspection data;
- b. Review methods for distributing and storing documents and reports;
- c. Review work area security and safety protocol;
- d. Discuss any appropriate modifications of the construction quality assurance plan to ensure that site-specific considerations are addressed; and,
- e. Conduct a site walk-around to verify that the design criteria, plans, and specifications are understood and to review material and equipment storage locations.

Respondents shall document the preconstruction inspection and meeting through the taking of minutes and shall transmit the minutes to all parties.

B. Prefinal inspection:

Upon preliminary project completion, the Respondents shall notify the EPA and the states of Missouri and Kansas for the purposes of conducting a prefinal inspection. The prefinal inspection shall consist of a walk-through inspection of the entire Facility. The inspection is to

determine whether the project is complete and consistent with the contract documents and the EPA approved Removal Actions. Any outstanding construction items discovered during the inspection shall be identified and noted. The prefinal inspection report shall outline the outstanding construction items, actions required to resolve items, completion date for these items, and a proposed date for final inspection.

C. Final inspection:

Upon completion of any outstanding construction items, the Respondents shall notify the EPA and the states of Missouri and Kansas for the purposes of conducting a final inspection. The final inspection shall consist of a walk-through inspection of the Facility by EPA and the Respondents. The prefinal inspection report shall be used as a checklist with the final inspection focusing on the outstanding construction items identified in the prefinal inspection. Confirmation shall be made that outstanding items have been resolved.

D. Reports

Completion of Removal Action Report

1. The completion of the Removal Actions shall be documented pursuant to Paragraph 34 of the Consent Order.
2. Respondents shall submit Monthly Reports by the tenth day after the date of receipt of EPA's approval of the Work Plan and shall continue until termination of the Consent Order. Monthly Reports shall detail the activity at the Site, including work performed during the preceeding month, including the work accomplished, work not accomplished and the reasons for the delay as well as plans to correct, and work scheduled for the following month. The Monthly Reports shall include any schedule changes or expected delays as well as plans to deal with any delays. The Monthly Reports shall also summarize safety and pollution issues identified in the daily reports.

3. Respondents shall submit Daily Reports by fax or email using the attached form and shall also include all shipments of materials from the site and all contacts with the public, media or other interested parties. Also, safety and pollution incidents shall be reported. This includes such things as accidents, spills, air releases, safety meetings and other important events. Report shall include running totals of shipments. This report shall be faxed by 9:00 a.m. the next business day to Paul Roerman at (913)551-9694 or roerman.paul@epa.gov and Pauletta France-Isetts at (913)551-9701 or france-isetts.pauletta@epa.gov. A copy of the report shall be kept on-site during the removal actions. Copies shall also be sent to the states if requested.

VII. CONTENT OF SUPPORTING PLANS

Respondents shall prepare the documents listed in this section -- the Quality Assurance Project Plan, the Field Sampling Plan, the Health and Safety Plan, the Contingency Plan and the Construction Quality Assurance Plan, the Logistics Plan --as outlined in Section III of this SOW. The following section describes the required contents of each of these supporting plans.

A. Quality Assurance Project Plan

Respondents shall develop a site specific Quality Assurance Project Plan (QAPP), covering sample analysis and data handling for samples collected in all phases of future site work, based upon the Consent Order and guidance provided by EPA. The QAPP shall be consistent with the requirements of the EPA Contract Lab Program (CLP) for laboratories proposed outside the CLP. The QAPP shall at a minimum include:

Project Description

- * Facility Location History
- * Past Data Collection Activity
- * Project Scope
- * Sample Network Design
- * Parameters to be Tested and Frequency
- * Project Schedule

Project Organization and Responsibility

Quality Assurance Objective for Measurement Data

- * Level of Quality Control Effort
- * Accuracy, Precision and Sensitivity of Analysis
- * Completeness, Representativeness and Comparability

Sampling Procedures

Sample Custody

- * Field Specific Custody Procedures
- * Laboratory Chain of Custody Procedures

Calibration Procedures and Frequency

- * Field Instruments/Equipment
- * Laboratory Instruments

Analytical Procedures

- * Non-Contract Laboratory Program Analytical Methods
- * Field Screening and Analytical Protocol
- * Laboratory Procedures

Internal Quality Control Checks

- * Field Measurements
- * Laboratory Analysis

Data Reduction, Validation, and Reporting

- * Data Reduction
- * Data Validation
- * Data Reporting

Performance and System Audits

- * Internal Audits of Field Activity
- * Internal Laboratory Audit
- * External Field Audit
- * External Laboratory Audit

Preventive Maintenance

- * Routine Preventative Maintenance Procedures and Schedules
- * Field Instruments/Equipment
- * Laboratory Instruments

Specific Routine Procedures to Assess Data Precision,
Accuracy, and Completeness

- * Field Measurement Data
- * Laboratory Data

Corrective Action

- * Sample Collection/Field Measurement
- * Laboratory Analysis

Quality Assurance Reports to Management

Respondents shall submit a draft and final QAPP to EPA for review and approval.

B. Health and Safety Plan

Respondents shall develop a health and safety plan which is designed to protect on-site personnel and area residents from physical, chemical and all other hazards posed by this removal action. The safety plan shall develop the performance levels and criteria necessary to address the following areas. EPA will review and may comment on this plan but will not approve it.

- * Facility Description
- * Personnel
- * Levels of protection
- * Safe work practices and safe guards
- * Medical surveillance
- * Personal and environmental air monitoring
- * Personal protective equipment
- * Personal hygiene
- * Decontamination - personal and equipment
- * Site work zones
- * Contaminant control
- * Contingency and emergency planning
- * Logs, reports and record keeping

The safety plan shall follow EPA guidance and all OSHA requirements as outlined in 29 CFR 1910 and 1926, as well as the National Contingency Plan (NCP), 40 C.F.R. 300.150.

C. Contingency Plan

Respondents shall submit a Contingency Plan describing procedures to be used in the event of an accident or emergency at the site or during off site transport of materials from the site. The draft Contingency Plan shall be submitted with the prefinal design and the final Contingency Plan shall be submitted with the Final Design. [The final Contingency Plan shall be submitted prior to the start of construction, in accordance with the approved construction schedule.] The Contingency Plan shall include, at a minimum, the following:

1. Name of the person or entity responsible for responding in the event of an emergency incident.
2. Plan and date(s) for meeting(s) with the local community, including local, State and Federal agencies involved in the cleanup, as well as local emergency squads and hospitals.
3. First aid medical information.
4. Air Monitoring Plan.

D. Field Sampling Plan

Respondents shall develop a field sampling plan as described in "Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA," (October 1988). The Field Sampling Plan should supplement the QAPP and address all sample collection activities.

E. Construction Quality Assurance Plan

Respondents shall submit a Construction Quality Assurance Plan (CQAP) which describes the site specific components of the quality assurance program which shall ensure that the completed project meets or exceeds all design criteria, plans, and specifications. The draft CQAP shall be submitted with the prefinal design and the final CQAP shall be submitted with the final design. The final

CQAP shall be submitted prior to the start of construction in accordance with the approved construction schedule. The CQAP shall contain, at a minimum, the following elements:

1. Responsibilities and authorities of all organizations and key personnel involved in the design and construction of the Remedial Action.
2. Qualifications of the Quality Assurance Official to demonstrate he possesses the training and experience necessary to fulfill his identified responsibilities.
3. Protocols for sampling and testing used to monitor construction.
4. Identification of proposed quality assurance sampling activities including the sample size, locations, frequency of testing, acceptance and rejection data sheets, problem identification and corrective measures reports, evaluation reports, acceptance reports, and final documentation. A description of the provisions for final storage of all records consistent with the requirements of the Consent Order shall be included.
5. Reporting requirements for CQA activities shall be described in detail in the CQA plan. This shall include such items as daily summary reports, inspection data sheets, problem identification and corrective measures reports, design acceptance reports, and final documentation. Provisions for the final storage of all records shall be presented in the CQA plan.
6. Cleanup and Performance Standards Verification Plan to document that cleanup standards were achieved.

F. Logistics Plan

The Logistics Plan shall detail how all activity at the site will be conducted to minimize disruption in the surrounding area. It shall include, but not be limited to:

- routes and emergency contacts for off site transport,
- procedures to minimize dust from the demolition,
- locations of construction trailers, loading areas etc,
- site contacts, city officials,
- procedures for handling disruption of neighboring businesses, etc.

VII. SUMMARY OF MAJOR DELIVERABLES/SCHEDULE

A summary of the reporting requirements contained in this SOW is presented below:

<u>Submission</u>	<u>Due Date</u>
1. Draft Removal Work Plan	Twenty (20) days after effective date of the Consent Order
2. Final Removal Work Plan	Fifteen (15) days after EPA comments on draft RD Work Plan.
3. Preliminary Design (30%)	Thirty (30) days after approval of the Final Work Plan
4. Preliminary Design (95%)	Thirty (30) days after approval of the 30% design.
5. Final Design	Thirty (30) days after EPA's comments on the 95% design.
6. Pre-Construction Inspection and Meeting	(15) days after approval of Final

- | | |
|-----------------------------|--|
| | Design |
| 7. Initiate Removal Actions | 10 days after Pre-Construction Inspection and meeting |
| 8. Prefinal Inspection | No later than 10 days after completion of construction |
| 9. Final Inspection | 10 days after completion of work identified in prefinal inspection report |
| 10. Progress Reports | Monthly (after EPA approves) during the course of the Consent Order to the same persons as the Daily Reports |
| 11. Daily Reports | E-mailed or faxed daily to EPA and States during all onsite work during Removal Actions until EPA approves monthly |

REFERENCE DOCUMENTS

The National Contingency Plan, 40 C.F.R. Part 300

"Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA," US EPA, Office of Emergency and Remedial Response, October, 1988, OSWER Directive No. 9355.3-01.

"A Compendium of Superfund Field Operations Methods," Two Volumes, US EPA, Office of Emergency and Remedial Response, EPA/540/P-87/001a, August, 1987, OSWER Directive No. 9355.0-14.

"Data Quality Objectives for Remedial Response Activities," US EPA, Office of Emergency and Remedial Response and Office of Waste Programs Enforcement, EPA/540/G-87/003, March, 1987, OSWER Directive No. 9335.0-7B.

"Guidelines and Specifications for Preparing Quality Assurance Project Plans," US EPA, Office of Research and Development, Cincinnati, OH, QAMS-004/80, December 29, 1980.

"Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans," US EPA, Office of Emergency and Remedial Response, QAMS-005/80, December, 1980.

"Users Guide to the EPA Contract Laboratory Program," US EPA, Sample Management Office, August, 1982.

"CERCLA Compliance with Other Laws Manual," Two Volumes, US EPA, Office of Emergency and Remedial Response, August, 1988, (draft), OSWER Directive No. 9234.1-01 and -02.

"Superfund Exposure Assessment Manual," US EPA, Office of Emergency and Remedial Response, September 22, 1987, OSWER Directive No. 9285.5-1.

"Health and Safety Requirements of Employees Employed in Field Activities," US EPA, Office of Emergency and Remedial Response, July 12, 1981, EPA Order No. 1440.2.

OSHA Regulations in 29 CFR 1910.120 (Federal Register 45654,

December 19, 1986).

"Test Methods for Evaluating Solid Waste: Physical/Chemical Methods," Third Edition, (OSW: SW-846).

"Toxicity Characteristic," Final Rule, (EPA/OSW-FR-89-026).

"EPA Superfund Remedial Design and Remedial Action Guidance" (OSWER Directive 9355.0-4A)

"Contract Laboratory Program (CLP) Users Guide", EPA, 1988.

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1. Article Addressed to:

Michael E. Wilcken, Esq.
Consolidated Edison Company
4 Irving Place
New York, New York 10003

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